

SAMUEL HOUSTON v. ARMY FLEET SERVICES, LLC  
DEPOSITION OF ROBERT WHITNEY



2/21/2007

Page 1

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
SOUTHERN DIVISION

SAMUEL HOUSTON,

Plaintiff,

vs.

CASE NO. CV-06-243-MEF

ARMY FLEET SERVICES, L.L.C.,

Defendant.

\* \* \* \* \*

DEPOSITION OF ROBERT ALFRED WHITNEY,  
taken pursuant to stipulation and agreement  
before Sherry Mack, Court Reporter and  
Commissioner for the State of Alabama at Large,  
in the Conference Room of Holiday Inn Express,  
9 North Pointe Boulevard, Enterprise, Alabama, on  
Wednesday, February 21, 2007, commencing at  
approximately 8:55 a.m.

\* \* \* \* \*

SAMUEL HOUSTON v. ARMY FLEET SERVICES, LLC  
DEPOSITION OF ROBERT WHITNEY

2/21/2007

2 (Pages 2 to 5)

Page 2

1 APPEARANCES  
2 FOR THE PLAINTIFF:  
3 Mr. Jimmy Jacobs  
4 LAW OFFICE OF JIMMY JACOBS  
5 Attorney at Law  
6 4137 Carmichael Road, Suite 100  
7 Montgomery, Alabama 36106  
8 FOR THE DEFENDANT:  
9 Ms. Monica G. Graveline  
10 Mr. M. Jefferson Starling, III  
11 BALCH & BINGHAM, L.L.P.  
12 Attorneys at Law  
13 1710 Sixth Avenue North  
14 Birmingham, Alabama 35203

## ALSO PRESENT:

15 Mr. Ken Demarco  
16 \*\*\*\*\*  
17 EXAMINATION INDEX  
18 ROBERT ALFRED WHITNEY  
19 BY MR. JACOBS 4  
20 BY MS. GRAVELINE 108  
21 EXHIBIT INDEX  
22 PLAINTIFF'S EXHIBIT NO.:  
23 1 Defendant's response 10  
to plaintiff's 30(b)(6)  
deposition notice  
2 2 Defendant's responses 14,67,74  
to plaintiff's requests  
for admission  
3 3 Answer 15,16,67  
4 4 Complaint 15,16

Page 4

1 any other purpose as provided for by the Federal  
2 Rules of Civil Procedure.

3 It is further stipulated and agreed by  
4 and between counsel representing the parties in  
5 this case that said deposition may be introduced  
6 at the trial of this case or used in any manner  
7 by either party hereto provided for by the  
8 Federal Rules of Civil Procedure.

\*\*\*\*\*

10 MS. GRAVELINE: I think we'll read and  
11 sign.

ROBERT ALFRED WHITNEY

12 The witness, having first been duly  
13 sworn to speak the truth, the whole truth, and  
14 nothing but the truth, testified as follows:

## EXAMINATION

BY MR. JACOBS:

18 Q. Mr. Whitney, I'm Jimmy Jacobs. I'm an  
19 attorney representing Sam Houston in this  
20 case. We met a little bit earlier. But this  
21 is what is called under the rules a 30(b)(6)  
22 deposition. Do you understand what that is?  
23 A. Not fully, sir.

Page 3

## 1 (PLAINTIFF'S EXHIBITS CONTINUED:)

2 5 Job description- 58  
aircraft scheduler  
3  
4 6 Return-to-work slip 91  
from Dr. Manski  
5 7 Return-to-work form 92  
6 8 Personnel status 96  
change request  
7  
8 9 Page 1 of personnel action 103-105  
10 Page 2 of personnel action 103,104

\*\*\*\*\*

## STIPULATIONS

12 It is hereby stipulated and agreed by  
13 and between counsel representing the parties that  
14 the deposition of ROBERT ALFRED WHITNEY is taken  
15 pursuant to the Federal Rules of Civil Procedure  
16 and that said deposition may be taken before  
17 Sherry Mack, Court Reporter and Commissioner for  
18 the State of Alabama at Large, without the  
19 formality of a commission; that objections to  
20 questions other than objections as to the form of  
21 the questions need not be made at this time but  
22 may be reserved for a ruling at such time as the  
23 deposition may be offered in evidence or used for

Page 5

1 Q. It is a procedure under the rule whereby a  
2 party -- in this case, the plaintiff,  
3 Mr. Houston -- can take a deposition of a  
4 business entity, the defendant in this case.  
5 So although I'm going to be asking you a lot  
6 of questions today, I'm actually asking those  
7 questions of the company. And are you  
8 qualified to respond on behalf of the  
9 company?

10 A. Yes, I am.

11 Q. Would you state your full name for us,  
12 please?

13 A. Robert Alfred Whitney.

14 Q. What is your connection with the defendant,  
15 Army Fleet Services?

16 A. How do you mean, sir?

17 Q. Are you employed by the Army Fleet Services?

18 A. Yes, I am. I'm a current employee.

19 Q. What is your position of employment?

20 A. I'm the manager of security and  
21 investigations.

22 Q. As the manager of security and  
23 investigations, what generally are your

Page 6

1 duties?

2 A. My primary duties are the oversight of  
3 compliance of the security section in  
4 accordance with the NISPOM, N-I-S-P-O-B --  
5 P-O-M. Sorry. National Security  
6 Regulations, 3-16, operational security, op  
7 sec, and also internal investigations in  
8 compliance.

9 Q. Could I ask you generally in compliance with  
10 what? Let me rephrase.

11 A. Yes, sir.

12 Q. Do you have any responsibility for ensuring  
13 compliance with the provisions of the  
14 Americans With Disabilities Act? Is that  
15 part of your job description?

16 A. Yes, sir.

17 Q. And exactly what are your duties in  
18 connection with ensuring compliance with the  
19 ADA?

20 A. I don't understand. What do you mean, sir?

21 Q. Well, I'm trying to find out. You said that  
22 part of your job was ensuring compliance with  
23 the ADA. I'm trying to find out what your

Page 7

1 duties are in that regard, what  
2 responsibilities do you have for ensuring  
3 compliance with the Americans With  
4 Disabilities Act?

5 A. Primarily, I consult and train our  
6 subordinate staff within HR on the rules and  
7 regulations of the Americans With  
8 Disabilities Act as well as other federal  
9 laws, and ensure that they apply those rules  
10 and regulations correctly.

11 Q. Do you have a similar responsibility for the  
12 provisions of the Family Medical Leave Act?

13 A. Yes, sir.

14 Q. Okay. Are you -- is your position a part of  
15 the Human Resources division or department of  
16 the defendant?

17 A. No, sir. Security is not assigned to Human  
18 Resources.

19 Q. How long have you been in the position you're  
20 in currently?

21 A. Under this title, this current position has  
22 existed for approximately 12 months.

23 Q. So January or February of 2006 is when you

Page 8

1 assumed that position?

2 A. Yes, sir.

3 Q. All right. What was your prior position?

4 A. Previous to that -- immediate previous or --

5 Q. Immediately previous.

6 A. Immediate previous position was the HR  
7 compliance officer.

8 Q. Okay. And did you have responsibilities for  
9 ensuring compliance with the ADA and the FMLA  
10 in that position?

11 A. Yes, sir.

12 Q. Did you have other duties in that position as  
13 well?

14 A. Yes, sir.

15 Q. What were your other duties?

16 A. As the HR compliance officer, I oversaw the  
17 training and administration of the general  
18 rules and regulations such as FMLA, ADA,  
19 ADEA, the Warrant Act, wage and hour issues,  
20 FLSA, responses to federal agencies, internal  
21 investigations of internal -- or internal  
22 complaints as well external responses.

23 Q. Did you have responsibility for dealing

Page 9

1 directly with employees who were processing  
2 leaves and/or claims through the Human  
3 Resources Department?

4 A. How do you mean, sir?

5 Q. Well, let me give you a for example.

6 Mr. Houston was on medical leave. Are you  
7 aware of that?

8 A. Yes, sir.

9 Q. In order to obtain that leave and maintain  
10 that leave, Mr. Houston had to submit various  
11 forms and interact with the Human Resources  
12 Department. Was your position one where he  
13 would have interacted with you?

14 A. No, sir.

15 Q. What was your position relative to those  
16 persons that he would have interacted with?  
17 Let me rephrase. Were you the supervisor of  
18 the persons who he would have interacted  
19 with?

20 A. No, sir.

21 Q. What was your relationship with those persons  
22 that he did interact with?

23 A. I -- I want to make sure we're clear by your

SAMUEL HOUSTON v. ARMY FLEET SERVICES, LLC  
DEPOSITION OF ROBERT WHITNEY

2/21/2007

4 (Pages 10 to 13)

Page 10	Page 12
<p>1 stating that the persons he interacted with.</p> <p>2 Q. For example, there was an individual whose</p> <p>3 name I've seen. Just one I recall was a</p> <p>4 Penny Westrick, I believe.</p> <p>5 A. Okay.</p> <p>6 Q. What was your relationship within in the</p> <p>7 organization with Ms. Westrick?</p> <p>8 A. Penny Westrick is a program coordinator</p> <p>9 within HR. At the time, I was HR</p> <p>10 compliance. Although I would not have been a</p> <p>11 direct supervisor, I could act in consulting</p> <p>12 manner or intervene on the manager's behalf.</p> <p>13 Q. Did you direct her activities in any way?</p> <p>14 A. In this instant or the --</p> <p>15 Q. In this instance. I'll get it down to that.</p> <p>16 A. I really don't know, sir.</p> <p>17 Q. You don't know. I'll mark this as</p> <p>18 Plaintiff's #1, and I want to show you. Have</p> <p>19 you seen the deposition notice that you're</p> <p>20 here on today?</p> <p>21 A. This document right here?</p> <p>22 Q. No, not this document. Have you seen a copy</p> <p>23 of a document headed Notice of 30(b)(6)</p>	<p>1 going to object to this as an</p> <p>2 unfair question to him because</p> <p>3 we're not tendering him to testify</p> <p>4 to the topics as you wrote them.</p> <p>5 I'm only tendering him to testify</p> <p>6 to the topics pursuant to our</p> <p>7 objections. And some of them have</p> <p>8 been limited by our objections.</p> <p>9 MR. JACOBS: Would you explain to me</p> <p>10 what the limits of your objection</p> <p>11 are, though?</p> <p>12 MS. GRAVELINE: Yeah. We can't --</p> <p>13 MR. JACOBS: You've objected to</p> <p>14 answering any questions about your</p> <p>15 denials here.</p> <p>16 MS. GRAVELINE: No. He will answer</p> <p>17 within reason, but you've asked</p> <p>18 for all facts and opinions. And</p> <p>19 that's overly broad. But he is</p> <p>20 here to testify as to the topics</p> <p>21 subject to the limitation that he</p> <p>22 can't possibly know all facts or</p> <p>23 opinions. No one could. No one</p>
Page 11	Page 13
<p>1 Deposition?</p> <p>2 A. I don't know by that title, sir.</p> <p>3 Q. Have you seen the document that informed you</p> <p>4 of the topics that I would be asking you</p> <p>5 questions the about today?</p> <p>6 A. I don't know, sir.</p> <p>7 Q. You don't know whether you have or not?</p> <p>8 A. Correct, sir. I mean, I've seen documents.</p> <p>9 I don't know which document you're referring</p> <p>10 to.</p> <p>11 Q. Okay. Well, let's just go through them. The</p> <p>12 document that you have in front of you is</p> <p>13 your attorney's response to my 30(b)(6)</p> <p>14 deposition notice. So I'll just ask you if</p> <p>15 you are aware of and able to answer questions</p> <p>16 regarding all of the facts and opinions that</p> <p>17 Army Fleet Services may have that would bear</p> <p>18 on the accuracy or inaccuracy of their</p> <p>19 denials in their answer to Mr. Houston's</p> <p>20 complaint?</p> <p>21 MS. GRAVELINE: Jimmy, we're tendering</p> <p>22 him pursuant to -- or limited by</p> <p>23 the objections we've made, so I'm</p>	<p>1 person could. We could string 20</p> <p>2 people in here, they wouldn't know</p> <p>3 it.</p> <p>4 Q. Can you testify to all facts and opinions</p> <p>5 that are within the knowledge of Army Fleet</p> <p>6 Services regarding their denials in this</p> <p>7 complaint today?</p> <p>8 A. I can only testify to my own.</p> <p>9 Q. Have you done any investigation to look into</p> <p>10 what the facts and opinions are of Army Fleet</p> <p>11 Services regarding their denials in this</p> <p>12 complaint before you came here today?</p> <p>13 A. How do you mean, sir?</p> <p>14 Q. I mean, have you done any preparation for</p> <p>15 this deposition today?</p> <p>16 MS. GRAVELINE: I'll caution you not to</p> <p>17 share anything you and I have</p> <p>18 talked about.</p> <p>19 Q. Not anything you discussed with the attorney,</p> <p>20 but --</p> <p>21 A. I have reviewed our responses to federal</p> <p>22 agencies and documents we produced.</p> <p>23 Q. Have you investigated any of the matters</p>



SAMUEL HOUSTON v. ARMY FLEET SERVICES, LLC  
DEPOSITION OF ROBERT WHITNEY

2/21/2007

5 (Pages 14 to 17)

Page 14

1 behind those documents? For example, if it  
2 asserted a fact, did you determine whether  
3 that fact was true or not?  
4 A. How do you mean, sir?  
5 Q. Have you done anything further than simply  
6 review the documents?  
7 A. I reviewed all documents pertaining to this  
8 complaint as represented by Army Fleet  
9 Support. Yes, sir.  
10 Q. Okay. We're going to go through these, so  
11 we'll find out. Have you seen Mr. Houston's  
12 request for admissions in this case?  
13 A. By title, I don't know, sir.  
14 Q. Okay.  
15 MR. JACOBS: Mark this as Plaintiff's  
16 #2.  
17 Q. If you would look at the document, it's  
18 titled Defendant's Responses to Plaintiff's  
19 Request for Admissions. Have you seen that  
20 document before today?  
21 A. I have --  
22 Q. -- before today?  
23 A. I have seen this.

Page 15

1 Q. Are you prepared to answer questions  
2 regarding those denials that are contained in  
3 this document today?  
4 A. I am.  
5 Q. Okay.  
6 MR. JACOBS: Mark this as #3.  
7 Q. Have you reviewed the Army Fleet Services  
8 answer to Mr. Houston's complaint in this  
9 case, the documents that's before you now?  
10 A. I have.  
11 Q. Okay.  
12 MR. JACOBS: Let's go ahead and mark  
13 the next one.  
14 Q. This is a copy of the complaint. Have you  
15 reviewed this document?  
16 A. Yes, sir.  
17 Q. I would suggest that we -- we're going to  
18 look at the complaint and answer, and I'm  
19 going to ask you some questions regarding  
20 that.  
21 A. The first -- you mean the #4 document?  
22 Q. Yes. I'm going to ask you questions  
23 regarding the answers, but the way the

Page 16

1 answers are constructed, it's going to be  
2 necessary for us to look at both documents to  
3 see the question as well as the answer.  
4 A. You're looking at #3 and #4?  
5 Q. Yes. I'd like to direct you to #4. Does  
6 Army Fleet Services deny that Mr. Houston  
7 initially went to work for DynCorp in 2002?  
8 A. I'm sorry, sir. Repeat please.  
9 Q. Does Army Fleet Services deny that  
10 Mr. Houston initially went to work -- was  
11 hired and went to work with DynCorp in  
12 February of 2002? In the answer, you only  
13 admit that he was employed -- became employed  
14 by AFS.  
15 A. Yes, sir. And that's what my response is.  
16 Mr. Houston was hired by Army Fleet Support  
17 in December of 2003.  
18 Q. Was he formerly an employee of DynCorp?  
19 A. I can speculate, sir. His seniority states  
20 that he held employment previous.  
21 Q. Does his personnel file at DynCorp include  
22 any information related to his job  
23 performance while he was working as an

Page 17

1 employee of DynCorp?  
2 A. Army Fleet Support does not have access to  
3 DynCorp personnel files. I don't know what's  
4 in his DynCorp personnel file, sir.  
5 Q. And that is in essence my question. There  
6 was no transfer of personnel files or  
7 information from DynCorp to Army Fleet  
8 Services when they took over?  
9 A. No, sir. Army Fleet Support does not have  
10 DynCorp files.  
11 Q. Okay. You'll notice in the answer there are  
12 two number sixes, and that was my error in  
13 drafting the complaint. There are, in fact,  
14 two number sixes in the complaint itself. In  
15 your -- the first number six in the  
16 complaint, there's a statement that  
17 Mr. Houston returned to the Human Resources  
18 office on March the 7th with an authorization  
19 to return to work signed by Dr. Manski; that  
20 that return to work form stated that he was  
21 permanently restricted from lifting more than  
22 25 pounds, climbing, standing more than an  
23 hour and a half, prolonged sitting more than

SAMUEL HOUSTON v. ARMY FLEET SERVICES, LLC  
DEPOSITION OF ROBERT WHITNEY

2/21/2007

6 (Pages 18 to 21)

Page 18

1 an hour and a half or from bending at the  
2 waist to lift, pull, twist, or push in order  
3 to prevent re-injury to his lower back.

4 It goes on to state that the Human  
5 Resources representative refused to accept  
6 that return-to-work form because the  
7 physician did not list a specific date for  
8 him to return to work but did inform him that  
9 he would not be able to return to work as an  
10 aircraft mechanic with the physical  
11 restrictions imposed by Dr. Manski.

12 Goes on to state Mr. Houston discussed  
13 with the a Human Resources representative the  
14 possibility of transferring to a position as  
15 an aircraft scheduler as an accommodation for  
16 his physical restrictions; that he was  
17 informed at that time that he would have to  
18 type 30 words a minute to qualify for that  
19 position, to brush up on his typing skills  
20 and that he could apply to reclassify when he  
21 returned to HR with this dated return-to-work  
22 slip. The answer to that paragraph admits  
23 that he went to the Human Resource office on

Page 20

1 of restrictions and/or medications, it's  
2 considered incomplete. And you must go back  
3 to your treating physician and get  
4 clarification. So in answering this, I did  
5 not see Mr. Houston on this meeting where he  
6 came to the Human Resources office on the  
7 7th, so I can't speak to what he states that  
8 a person told him these things. There is no  
9 record of any person saying that you can come  
10 back and you can do this, this, or this, just  
11 that you simply need to go back and get  
12 clarification on your return to work slip.

13 Q. Is there any record of his visit on that  
14 date?

15 A. I don't know, sir.

16 Q. If there were a record, where would it be?

17 A. Just as all persons coming to the Human  
18 Resources office, they're required to sign  
19 in.

20 Q. Okay. If you'd explain the physical layout  
21 for me. Is this office in a building?

22 A. Yes, sir.

23 Q. What else is in that building?

Page 19

1 March the 7th.

2 Are all of the other matters in that  
3 paragraph true?

4 A. I wanted to clarify one thing first. When  
5 you read number six, and I don't know if the  
6 court reporter heard it different than I, you  
7 had read 45 pounds on the restrictions. It  
8 says 25 pounds.

9 Q. If I made that error, I regret it. It is 25  
10 pounds.

11 A. Yes, sir. The only thing I'm aware of -- and  
12 I can explain why the response would be like  
13 this is that he came to the Human Resources  
14 office. The person he would see would be a  
15 bargaining unit person who would receive that  
16 person at the window, take a look at the  
17 return-to-work slip and then begin the  
18 process of filling out a return-to-work slip  
19 form. If the form is incomplete, either the  
20 return-to-work date saying you're authorized  
21 to return to work today or you're authorized  
22 to return to work on Monday is incomplete or  
23 it fails to state your restrictions or lack

Page 21

1 A. Not to -- not to be a stickler, are you  
2 talking about the time Mr. Houston did these  
3 actions --

4 Q. Yeah.

5 A. -- or currently?

6 Q. That would be sufficient.

7 A. Because the office is different.

8 Q. Yes.

9 A. All right. At the time of this, the Human  
10 Resources office is located within a small  
11 strip mall in Daleville, Alabama. The Human  
12 Resources office is isolated from other  
13 adjoining offices. Although there is a  
14 separate door for Labor Relations, you can  
15 get to Labor Relations by going through Human  
16 Resources. That's not the primary entrance  
17 for Labor Relations. Otherwise, when you  
18 walk into the Human Resources office, you  
19 have a single-door entrance, goes into a  
20 small reception area. The reception area has  
21 a window which also has a counter where  
22 employees are asked to sign in and  
23 acknowledge that they need help. There's a

Page 22

1 receptionist there who is bargaining unit.  
2 And the receptionist sees the primary purpose  
3 for that person coming to Human Resources and  
4 directs them to the bargaining unit personnel  
5 handling their area.  
6 Q. And I'm sorry. I didn't understand. Are you  
7 saying the bargaining unit person?  
8 A. Yes. In Human Resources, there are -- just  
9 as in any union environment, there are hourly  
10 bargaining unit and salaried exempt, which  
11 are non-bargaining unit.  
12 Q. Okay. Do you have different persons that  
13 would handle different bargaining units? For  
14 example, I know IAM is one of the unions you  
15 deal with. Are there other unions?  
16 A. It's the only union, sir.  
17 Q. It's the only union. Okay.  
18 A. I'm sorry if my terminology is archaic, but  
19 it's the day-to-day term.  
20 Q. That's one of those things about being an  
21 attorney; you get to learn all sorts of  
22 terminology and archaic things that are  
23 common to other people but are strange to

Page 23

1 you.  
2 A. Yes, sir.  
3 Q. So when a person walks through the door, in  
4 essence, they have to sign in before anything  
5 else happens?  
6 A. They should sign in, sir.  
7 Q. What is the procedure once this person is  
8 directed to a Human Resources  
9 representative? What sort of records are  
10 maintained?  
11 A. Sir, it would really depend on the personnel  
12 action. If a person is coming to change  
13 their address or their phone number, they're  
14 given the form to fill out. They go to the  
15 HR representative, and that person enters the  
16 data. If the person is coming in to elect or  
17 change benefits or beneficiaries or something  
18 like that, they'd be directed to that section  
19 to fill out the necessary paperwork and  
20 they'll be processed by them.  
21 Q. What is the company's requirement for the HR  
22 representative to make a record of their  
23 activity in interacting with an employee, or

Page 24

1 is there any?  
2 A. How do you mean, sir?  
3 Q. Is the HR employee required to document their  
4 meetings with employees?  
5 A. There's no requirement for any sort of work  
6 diary or work log. However, there must a  
7 source document. The source document must be  
8 approved -- reviewed and approved prior to  
9 any input.  
10 Q. In the instance of Mr. Houston's visit with  
11 his undated return-to-work form, what would  
12 be the source document?  
13 A. There would be no source document because he  
14 would have been told, please go back to your  
15 doctor and get clarification. A copy of that  
16 document wouldn't have been kept.  
17 Q. In the second number six, the statements  
18 regarding Mr. Houston returning home and  
19 practicing his typing skills and so on, and  
20 the response is that you -- I'm sorry -- that  
21 Fleet Services doesn't have enough  
22 information to know whether that's true or  
23 not. Is that essentially correct?

Page 25

1 A. There is no record of any of this, sir.  
2 Q. Paragraph seven relates that Mr. Houston  
3 obtained his return-to-work authorization.  
4 And I made an error in the complaint, dated  
5 for March the 7th. Actually, it's March the  
6 14th. And that he returned to the Human  
7 Resources offices again. That is denied. Is  
8 there any record that Mr. Houston visited the  
9 Human Resources offices again on March the  
10 10th?  
11 (Brief pause)  
12 A. Excuse me.  
13 Q. Sure.  
14 A. I wanted to finish this.  
15 Q. I'm trying to determine the basis for the  
16 denial. Obviously, he didn't have a form  
17 that said that he could come back to work on  
18 March the 10th, but is there any record that  
19 he returned to HR on March the 10th?  
20 A. And I apologize for the delay. I'm -- I'm  
21 just rereading these first two sentences and  
22 making sure I understand exactly what they're  
23 saying because they really don't. And if you



SAMUEL HOUSTON v. ARMY FLEET SERVICES, LLC  
DEPOSITION OF ROBERT WHITNEY

2/21/2007

8 (Pages 26 to 29)

Page 26

1 could excuse me one second while I put my  
2 jacket on.  
3 Q. Okay.  
4 (Brief pause)  
5 A. All right. I'm sorry. And we're talking  
6 about the second number six, correct?  
7 Q. We're talking about number seven.  
8 A. Number seven. Thank you.  
9 Q. I think there may be two errors in that  
10 statement.  
11 A. I believe so, sir.  
12 Q. Okay. There would be a record of each time  
13 that Mr. Houston visited the HR department in  
14 March of 2005, would there not be, since he  
15 has to sign in? Would that be correct?  
16 A. Provided he did sign in.  
17 Q. Would anyone have talked with him unless he  
18 had signed in? I mean, an HR representative?  
19 A. It's possible, sir.  
20 Q. Okay.  
21 A. So I'm still working on like I said these  
22 first three sentences. I've gone one more.  
23 But the first sentence says Mr. Houston

Page 27

1 obtained a return-to-work authorization dated  
2 for March 3rd from Dr. Manski on March 10th  
3 and returned to the Human Resources office on  
4 March 14th.  
5 Q. That's obviously an error on my part. It's  
6 not true, and you certainly could deny that.  
7 A. And I do.  
8 Q. That's not true.  
9 A. The second one is, Houston had been informed  
10 on a visit to Human Resources office on March  
11 11th that he would be fired due to physical  
12 restrictions which had been listed on his  
13 initial return-to-work form.  
14 I'm not aware of any HR person who  
15 would have made a statement like that. And  
16 bargaining unit personnel would have been the  
17 ones to have received him, would have known  
18 his return-to-work conditions which would not  
19 have included being fired.  
20 Q. Okay.  
21 A. So that one I also would have to deny.  
22 Houston reported to the AFS office -- Human  
23 Resources office on March 14th to in-process

Page 28

1 from his short-term disability leave and was  
2 officially informed he would be involuntarily  
3 terminated.  
4 I'm not aware of that either.  
5 Q. So you deny that -- are you denying -- does  
6 the company deny that he returned for  
7 in-processing on March the 14th?  
8 A. By the form that you're asking, yes, he would  
9 not come to in-process. A person returning  
10 to work from a short-term disability is not  
11 returning to in-process. They're returning  
12 under the provisions under Article 35 to  
13 their previous classification, which is  
14 returning to work, not to in-process.  
15 Q. Okay. Well, then let's change the  
16 terminology if we will. Does the company  
17 deny that he came on March the 14th to return  
18 to work?  
19 A. I would have to look at his return-to-work  
20 documents to the confirm the dates.  
21 Q. We'll do that shortly.  
22 A. Yes, sir.  
23 Q. Let's look at paragraph eight which AFS

Page 29

1 denied. It states that Houston did receive  
2 forms on the day that he came back to return  
3 to work to out-process from his employment  
4 and that he was involuntarily terminated, and  
5 that he began that formal process of  
6 separation on that date.  
7 A. Once again, the form of the question, I have  
8 to deny because at the end of your six month  
9 short-term disability, you are not  
10 out-processed from the company unless the six  
11 months is longer than your time of  
12 employment. His reinstatement rights were  
13 out to five years or length of seniority,  
14 whichever is less. So his out-processing  
15 ATTC and Human Resources office was, in  
16 effect, the beginning of his status as an  
17 inactive employee after his short-term  
18 disability.  
19 Q. Was he an active employee while he was on  
20 short-term disability?  
21 A. Not after 30 days.  
22 Q. All right. So he processed from being an  
23 inactive employee to being an inactive



SAMUEL HOUSTON v. ARMY FLEET SERVICES, LLC  
DEPOSITION OF ROBERT WHITNEY

2/21/2007

9 (Pages 30 to 33)

Page 30

1 employee?

2 A. Yes, sir. Under a different provision of the

3 CBA.

4 Q. Was he on the payroll?

5 A. At which time, sir?

6 Q. While he was on short-term disability.

7 A. How do you mean, sir?

8 Q. Was he on the company payroll?

9 A. How do you mean, was he on the payroll? He

10 was not actively working; therefore, he was

11 not receiving a paycheck. However, he was

12 receiving company benefits.

13 Q. Tell me how many different ways you could be

14 on the Army Fleet Services payroll.

15 A. Please work with me on this.

16 Q. I'm trying to.

17 A. How do you mean on the payroll?

18 Q. He --

19 A. The provision -- and I'm sorry to interrupt.

20 I know that I asked for a classification.

21 But the provisions of the collective

22 bargaining agreement establish the different

23 status of employment, currently working or as

Page 31

1 to whether you're on a short-term disability

2 status, military leave of status -- or

3 military leave of absence, or on extended

4 leave of absence after short-term disability.

5 Q. Well, I think I understand he was on short-

6 term disability for a period of time of

7 approximately six months.

8 A. Yes, sir.

9 Q. Right. Was he on the payroll during that

10 time period?

11 A. Mr. Houston was still accruing seniority and

12 he was accruing benefits.

13 Q. During the time he was on the short-term

14 disability?

15 A. Yes, sir.

16 Q. When he attempted to return to work, on the

17 day after that, was he on the payroll?

18 A. I don't know what you mean, sir.

19 Q. Well, and I'm not sure that I know either.

20 It seems to me like a simple question. It's

21 either yes or no he was on the payroll or

22 not. Was he accruing seniority and benefits

23 after March the 14th like he was while he was

Page 32

1 on short-term disability?

2 A. No, sir. He was accruing seniority. His

3 benefits were paid. He picked up the

4 employer contribution, but he was not under

5 COBRA status.

6 Q. And I'm going to have to ask you to explain

7 that to me just a little bit. After March

8 the 14th, he began to pay the employer

9 portion of his benefits as well as the

10 employee portion; is that correct?

11 A. If his short-term disability benefits have

12 run out, yes, sir, up to the length of

13 seniority or five years, whichever is less.

14 Q. All right. So he was receiving no benefits

15 from Army Fleet Support or Services after

16 that date?

17 A. How do you mean, sir?

18 Q. Well, was he receiving any benefits from Army

19 Fleet Services after that date?

20 A. Yes, sir.

21 Q. What benefit was he receiving from the

22 company?

23 A. After that date, he still accrues seniority,

Page 33

1 and he's still allowed to participate in the

2 company-sponsored benefits at less than the

3 COBRA rate.

4 Q. Okay. Let's go to number nine, states that

5 he returned on March 15th to complete his

6 out-processing and was given paperwork that

7 indicated that he was being administratively

8 terminated. Is that the admission in number

9 nine, admitted he returned on March the 15th?

10 A. Number nine has more statements in it,

11 though.

12 Q. Tell me which parts of that are not true.

13 A. If there is record that Mr. Houston returned

14 on March 15th to complete his

15 out-processing -- and that would be on his

16 out-processing check list -- and was given

17 new paperwork which indicated that he was

18 being administratively terminated, that would

19 have been the terminology used on that

20 document at that time. It's old main frame

21 language, which is clarified. He was told

22 that he would have call-back rights under the

23 union bargaining agreement for his job as an

SAMUEL HOUSTON v. ARMY FLEET SERVICES, LLC  
DEPOSITION OF ROBERT WHITNEY

2/21/2007

10 (Pages 34 to 37)

Page 34

1 aircraft mechanic. I don't know who would  
2 have told him that, but that would be  
3 correct. However, he was also informed that  
4 he could receive unemployment benefits due to  
5 his termination. I know of no person who  
6 would have offered that up. He would have  
7 been talking to bargaining unit personnel on  
8 his out-processing.  
9 Q. Okay. Do employees of AFS not qualify for  
10 unemployment compensation if they are laid  
11 off?  
12 A. To my knowledge, Mr. Houston was not laid off  
13 if that's what your question was.  
14 Q. Well, it was going to be my question  
15 ultimately, but my question was, would AFS  
16 employees be entitled to unemployment if they  
17 were laid off?  
18 A. I don't know, sir.  
19 Q. Okay. You don't know whether they would or  
20 not?  
21 A. Correct, sir. I --  
22 Q. Okay. Could you give me the definitions that  
23 AFS uses for the word "termination?"

Page 35

1 A. How do you mean, sir?  
2 Q. On March the 14th and 15th of 2005, what were  
3 the definitions of the word "terminated" from  
4 employment in connection with employment that  
5 AFS had?  
6 A. How do you mean, sir? What was the  
7 definition of termination?  
8 Q. Yes. What was the definition of the word  
9 termination in regard to your employment at  
10 AFS on March the 14th and 15th?  
11 A. The definition wouldn't change from day to  
12 day. The definition of a termination is end  
13 of employment.  
14 However, as was clarified in several  
15 instances, the word termination was language  
16 that was embedded in a system that AFS no  
17 longer possesses which carried that language,  
18 not only in instances like this but also  
19 under military, which we know is not a  
20 termination. It's simply language that keys  
21 benefits and change of status.  
22 Q. Is that defined anywhere in company -- or was  
23 that defined anywhere in company documents

Page 36

1 that that's what the word termination meant?  
2 A. How do you mean, sir?  
3 Q. Well, I mean in the real world where most of  
4 us are -- and I understand that sometimes the  
5 military world is a little different -- if a  
6 person is terminated from their job, they no  
7 longer have a job. So what I'm asking for is  
8 where and how did AFS define the term  
9 "termination" in connection with employment  
10 with AFS as of March the 14th and 15th of  
11 2005?  
12 A. Then I would have to respond that termination  
13 is a cessation of all pay and benefits in  
14 affiliation with the company to include  
15 representation by the collective -- or within  
16 the collective bargaining agreement.  
17 Q. Was Mr. Houston still within the collective  
18 bargaining agreement on March the 14th?  
19 A. Yes, sir.  
20 Q. Of 2005?  
21 A. Yes, sir.  
22 Q. Was he still within the collective bargaining  
23 agreement on April 1st, 2005?

Page 37

1 A. Yes, sir.  
2 Q. Is he still within the collective bargaining  
3 agreement today?  
4 A. To my knowledge he is.  
5 Q. All right. Number 10 indicates that Houston  
6 unsuccessfully sought assistance from the  
7 EEO office at Eglin and the IG's office at  
8 Ft. Rucker, and that is denied.  
9 You deny that that happened?  
10 A. I deny any knowledge of it.  
11 Q. Okay. Number 11, Houston was eventually  
12 denied unemployment benefits when AFS claimed  
13 he was not really terminated from his job as  
14 an aircraft mechanic, but instead, he was  
15 laid off and subject to being recalled.  
16 You do admit that he was denied  
17 unemployment benefits because his employment  
18 had not be terminated. Is that the  
19 discussion that we just had, that it's your  
20 contention he was terminated but not  
21 terminated?  
22 A. No, sir, I've never made that claim.  
23 Q. What was his status?

SAMUEL HOUSTON v. ARMY FLEET SERVICES, LLC  
DEPOSITION OF ROBERT WHITNEY

2/21/2007

11 (Pages 38 to 41)

Page 38

1 A. Mr. Houston was an inactive employee with  
2 recall rights.  
3 Q. What recall rights did he have?  
4 A. The same as all other bargaining unit in  
5 inactive status, up to five years or length  
6 of seniority.  
7 Q. Specifically, what call-back rights did he  
8 have?  
9 A. How do you mean, sir?  
10 Q. What could he be called back for?  
11 A. If Mr. Houston's condition had improved such  
12 or allowed for his ability to return to work  
13 in his previous classification and could be  
14 with or without or could work in that  
15 classification with or without  
16 accommodations, he had full reinstatement  
17 rights with seniority.  
18 Q. Okay. So he could be called back as an  
19 aircraft mechanic? That was his status with  
20 the company?  
21 A. That's what he left as, yes, sir.  
22 Q. Okay. Could he called back in any other  
23 position?

Page 39

1 A. How do you mean, sir?  
2 Q. Well, and I don't know all of the positions  
3 that the company has. I sent some discovery  
4 requests, so we'll determine that. But I do  
5 know that there's one called an aircraft  
6 scheduler. Under the terms of his  
7 termination, could he have been called back  
8 as an aircraft scheduler?  
9 A. To my knowledge, and through a review of his  
10 personnel file, I don't know him to be  
11 qualified as an aircraft scheduler;  
12 therefore, he would not be able to hold a  
13 position as an aircraft scheduler.  
14 Q. Okay. We'll come back to that one, too. In  
15 response to the complaint as well as response  
16 for request of admissions, AFS denies that  
17 Mr. Houston is a disabled person according to  
18 the terms of the ADA. You've indicated that  
19 you're responsible for the compliance with  
20 the ADA. Could you tell me the basis of the  
21 company's denial, facts and opinions that you  
22 rely on that he is not a disabled person  
23 within the terms of the ADA?

Page 40

1 MS. GRAVELINE: I object to that as  
2 legal conclusion. You can answer  
3 if you know.  
4 A. And that's -- and that's --  
5 Q. And that's not a valid objection in the  
6 deposition, but go ahead.  
7 A. That's my question. Are you asking for the  
8 legal definition under the ADA or --  
9 Q. That's what this case is all about, is  
10 whether he was a disabled person, and the  
11 company has denied that he was. So I would  
12 like to know what facts you rely on to deny  
13 that he was a disabled person under the terms  
14 of the ADA.  
15 MS. GRAVELINE: Same objection. You  
16 can answer if you know.  
17 A. Under the ADA, a person must be able to  
18 perform the primary functions of the job with  
19 or without accommodations. By Mr. Houston's  
20 return-to-work slip and the advice of his  
21 treating physician, Mr. Houston could not  
22 perform as an aircraft mechanic in any  
23 capacity.

Page 41

1 Q. All right. Was there any other job that he  
2 could have performed?  
3 A. Since Mr. Houston did not request an  
4 evaluation for any other position, I really  
5 wouldn't know what to evaluate him on.  
6 Q. What analysis did Army Fleet Services  
7 undertake to determine whether or not the  
8 position of aircraft mechanic could be  
9 accommodated to his physical restrictions?  
10 A. How do you mean, sir?  
11 Q. What process did AFS undertake, go through,  
12 in order to make a determination that that  
13 job could not be accommodated to the physical  
14 abilities that he possessed on March the 14th  
15 of 2005?  
16 A. Thank you, sir. Thank you. And I'm going to  
17 go through the standard procedure, and then  
18 we'll go to this particular return.  
19 When a person is out on any length  
20 of -- of -- should I say medical evaluation,  
21 which under the CBA even states as short as  
22 three days -- if I'm out for three days and  
23 under medical supervision or for a medical



SAMUEL HOUSTON v. ARMY FLEET SERVICES, LLC  
DEPOSITION OF ROBERT WHITNEY

2/21/2007

12 (Pages 42 to 45)

Page 42

1 reasons, when I return, I have to produce a  
2 certification from my doctor stating when I'm  
3 able to return to work, any and all  
4 restrictions or lack of restrictions and any  
5 medications. At that time, if there are  
6 medications and/or restrictions, the hourly  
7 personnel will contact designated personnel  
8 at the field, usually the field manager, the  
9 who one oversees all maintenance on the  
10 airfield operations, to see if the specific  
11 restrictions and/or medications or durations  
12 of any of the above can or cannot be  
13 accommodated.

14 In this case -- now we go to  
15 Mr. Houston. Mr. Houston worked for the  
16 Aviation Technical Test Center, ATTC, when he  
17 brought his work restrictions in, even though  
18 the doctor's note said, cannot work in any  
19 capacity of an aircraft mechanic, it was  
20 processed the same as all others. Under  
21 normal circumstances, under the CBA, I will  
22 call your director because that's who I  
23 worked for. I left ATTC. I will call ATTC,

Page 43

1 and I will see if there is anything out there  
2 available which can accommodate your  
3 restrictions, duration of restrictions,  
4 and/or medications.

5 In this case, because they did seem so  
6 severe and we'd already gotten a denial from  
7 the ATTC director who could not -- his  
8 aircraft mechanics work on extremely  
9 technical aircraft -- could not work with any  
10 of these restrictions, we actually attempted  
11 to see if there were any other fields that  
12 might be able to, which was above and beyond  
13 what we would normally do. Because of the  
14 extensive amount of restrictions and the fact  
15 that the doctor's recommendation was cannot  
16 work in this capacity, it was determined by  
17 each field director that they could not  
18 accommodate him.

19 Q. When you say a field director, I have some  
20 passing familiarity with this area. And  
21 let's say, for example, Lowe Field. Is that  
22 who you refer to as a field director, the  
23 person in charge of Lowe Field?

Page 44

1 A. Each of the Army airfields have a director of  
2 maintenance.

3 Q. So the person you're referring to is the  
4 airfield director?

5 A. Yes, sir.

6 Q. And I believe Mr. Donley was the director at  
7 the field that Mr. Houston had been working  
8 at. Is that your memory?

9 A. Yes, sir.

10 Q. So you contacted all of the directors to see  
11 if there were any other jobs or job  
12 classifications that Mr. Houston could  
13 perform?

14 A. No, sir, I did not and I would not.

15 Q. What did you do? Because that's what I  
16 understood you to tell me.

17 A. No, sir. When a person returns from a length  
18 of absence, an hourly employee will -- will  
19 take their paperwork, in-process it. They  
20 will make the contacts. They will fill out  
21 the return-to-work slip. You have a copy of  
22 one in some of the -- I would believe -- of  
23 Mr. Houston's return-to-work slip that is

Page 45

1 signed by Mr. Donley and also signed by the  
2 HR department. And any -- any circumstance,  
3 we could not call to see if there's any  
4 classification or any alternate job that a  
5 person could do because that would affect  
6 their conditions of employment and circumvent  
7 the collective bargaining agreement. We can  
8 only request can this person go back, can you  
9 accommodate them in their current  
10 classification, job, if you will.

11 Q. How would that circumvent the collective  
12 bargaining agreement?

13 A. It would impose a classification on a person  
14 without their request.

15 Q. So it's designed to protect the employee from  
16 being put in some classification they don't  
17 want?

18 A. The company cannot change a person's  
19 conditions of employment without their  
20 request.

21 Q. Okay. Did Mr. Houston direct the company not  
22 to look at any other classifications where he  
23 might could be accommodated?



Page 46

1 A. How do you mean, sir?

2 Q. Well, you said that you couldn't reclassify

3 him or change his conditions of employment

4 without his consent or without his request.

5 And did he tell the company that he didn't

6 want to be put in any other job

7 classification where his physical

8 restrictions could be accommodated?

9 A. Were Mr. Houston to have received

10 consideration as an active employee, he

11 would have had to have requested a

12 reclassification.

13 Q. Okay. Did he request a reclassification?

14 A. Mr. Houston was not an active employee.

15 Q. So he couldn't request a reclassification?

16 A. Not as an inactive employee.

17 Q. So he's an inactive employee, and he can't

18 request a reclassification; is that right?

19 A. That's correct, sir.

20 Q. And his medical restrictions prevent him from

21 coming back to work as an active employee; is

22 that correct?

23 A. To my knowledge, yes, sir.

Page 47

1 Q. That was a determination that AFS made; is

2 that not correct?

3 A. What is that, sir?

4 Q. I'm sorry?

5 A. What is a determination that AFS made?

6 Q. Well, you told me you went through some

7 process where you contacted all the field

8 directors, and they told you they couldn't

9 accommodate his restriction. So did you not

10 make a determination that he couldn't work as

11 an aircraft mechanic because of his physical

12 restrictions?

13 A. No, sir. His physician made that

14 determination.

15 Q. Did not his physician request that he be

16 placed in another position where he didn't

17 have to do those things?

18 A. How do you mean, sir?

19 Q. Well, I mean, you're now telling me that

20 you're not relying on your own analysis, but

21 you're relying on the physician's analysis.

22 And I'm asking you if the physician did not

23 also indicate that it was his belief that

Page 48

1 Mr. Houston should be reclassified or

2 transferred to a position where he could meet

3 the physical requirements to work.

4 A. I do believe there is a return-to-work that

5 states that he should be put in a sedentary

6 job. However, under Article 35.2, an

7 employee must request.

8 Q. All right. And the company denies that

9 Mr. Houston requests to be placed in another

10 position where he could continue to work?

11 A. I'm not aware of Mr. Houston ever requesting

12 an alternate classification.

13 Q. All right. Do you have any documentation

14 that he never requested to be placed in an

15 alternate classification?

16 A. I have no documentation showing where he did.

17 Q. All right. Do you have any that he did not?

18 A. I don't understand the question, sir.

19 That -- that is a double negative.

20 Q. Well, we're in jabberwocky now, anyway. So I

21 guess that we're dancing on the head of a pin

22 as the scholastics used to call it. What

23 qualifications do your field directors have

Page 49

1 to make a determination as to whether a job

2 can be accommodated within the requirements

3 of the Americans With Disabilities Act?

4 A. How do you mean they're qualifications, sir?

5 Q. I mean, what qualifications do they have in

6 order to make a determination consistent with

7 the requirements of the Americans With

8 Disabilities Act as to whether a job can be

9 accommodated or not?

10 A. Thank you. By contract, the field managers

11 must have specific experience, not only in

12 maintenance but in aircraft maintenance,

13 specifically; and all of them have specific

14 experience to the airframe that they

15 maintain. In other words, they are

16 considered the subject matter experts on not

17 only the aircraft but the maintenance of

18 those aircraft. These individuals are

19 responsible to answer to the government on

20 all aspects of maintenance, maintenance

21 production --

22 (Brief interruption)

23 A. -- as well as the physical requirements of

SAMUEL HOUSTON v. ARMY FLEET SERVICES, LLC  
DEPOSITION OF ROBERT WHITNEY

2/21/2007

14 (Pages 50 to 53)

Page 50

1 the manpower to maintain the aircraft. Does  
2 that make sense, sir?  
3 Q. Do they have any expertise in the area of  
4 compliance with the Americans With  
5 Disabilities Act?  
6 MS. GRAVELINE: Object to form.  
7 A. How do you mean, sir?  
8 Q. Well, you told me earlier that you were the  
9 person who was in charge of compliance with,  
10 among other things, the ADA.  
11 A. Yes, sir.  
12 Q. Do those individuals who are field directors  
13 have any expertise in meeting the  
14 requirements to comply with the ADA?  
15 A. How do you mean expertise?  
16 Q. I mean, expertise, knowledge and training.  
17 A. They do have knowledge, and they do have  
18 training.  
19 Q. What is the nature of their knowledge?  
20 A. I can't answer the nature of their  
21 knowledge. I can answer the nature of their  
22 training.  
23 Q. What knowledge do they have? What knowledge

Page 51

1 do they have?  
2 A. How do you mean, sir?  
3 Q. I mean, what knowledge do they have? You  
4 said they have knowledge and training, so  
5 what knowledge do they have?  
6 A. They have received training.  
7 Q. All right. Well, I've received training on  
8 playing the guitar, but I'll admit I don't  
9 have much knowledge or skill at it. What  
10 knowledge do they have? Do you have any  
11 knowledge of what knowledge they have?  
12 A. I'm aware that they receive annual training.  
13 Q. Then tell me about the training they get.  
14 A. To my knowledge, besides any training I have  
15 provided on a one-to-one basis, each field  
16 manager is afforded training packages which  
17 are available in my office as well as through  
18 L3, the parent company, on discrimination,  
19 harassment, ADA, FMLA, the primary  
20 supervisory type of legislation.  
21 Q. So they have packets of information that are  
22 available to them. That's their training?  
23 A. How do you mean, sir?

Page 52

1 Q. Well --  
2 A. Each one is different. I can't answer for a  
3 group of people. I can answer for specific  
4 people at certain times. You're asking me to  
5 balloon everybody into a group of knowledge.  
6 Q. Well, let me ask you about Mr. Donley. What  
7 training did he have?  
8 A. Besides having a master's degree in Human  
9 Resources, which also covers labor law, same  
10 course as I took, he also has a master's  
11 degree in business administration and is  
12 extremely well-versed in aspects of Human  
13 Resources.  
14 Q. What training does he have relative to making  
15 determinations about accommodations and job  
16 skills in compliance with the ADA?  
17 A. Thank you. Mr. Donley has an extensive  
18 background in knowing the job functions and  
19 functional capacity for each position to  
20 include his aircraft maintenance personnel,  
21 what their day-to-day duties include, what  
22 they are required to do on a day-to-day basis  
23 and what he can or cannot accommodate.

Page 53

1 Q. All right. Is there any record that  
2 Mr. Donley or any other field director made  
3 any such analysis of all of the job duties  
4 and whether or not there was any way that  
5 they could be modified in order to  
6 accommodate Mr. Houston's disabilities?  
7 A. The ADA doesn't require modification of a  
8 primary function of the job, but I'm not  
9 aware of any such analysis. I am not.  
10 MR. STARLING: Can we take a break here  
11 in a minute?  
12 MR. JACOBS: Yes. Make it brief,  
13 though, because we are going to  
14 finish by noon, so let's take  
15 about five minutes.  
16 (Brief recess)  
17 Q. I believe when we took a break that I was  
18 asking you if there were any records of any  
19 analysis that was performed to determine  
20 whether Mr. Houston could or could not  
21 perform the duties of the job of aircraft  
22 mechanic. And your answer was?  
23 A. I'm not aware of any physical analysis, no,

Page 54

1 sir.  
2 Q. Are you aware of any record of any such  
3 analysis having been made? Let me rephrase  
4 that. Does the company have a record of any  
5 such analysis having been performed?  
6 A. To my knowledge, the record that exists is  
7 the field managers were notified, told of the  
8 restrictions, and having full, in-depth  
9 knowledge of the functional capacity of the  
10 aircraft mechanic, were qualified to make the  
11 decision whether there was an accommodation  
12 available.  
13 Q. And that was the extent of the company's  
14 efforts to provide any reasonable  
15 accommodation for Mr. Houston; is that  
16 correct?  
17 A. How do you mean, sir?  
18 Q. I mean, is there any record anywhere that the  
19 company did any further action or undertook  
20 any further actions to make a determination  
21 as to whether there were any means to  
22 accommodate Mr. Houston's disability?  
23 MS. GRAVELINE: Object to form.

Page 55

1 A. The only thing we were presented were  
2 Mr. Houston's restrictions.  
3 Q. Right.  
4 A. And in contacting the field managers, those  
5 restrictions could not be accommodated.  
6 Q. And that was the end of the inquiry; is that  
7 correct?  
8 A. Yes, sir.  
9 Q. Okay. During the time that Mr. Houston was  
10 on short-term disability, did he have to  
11 submit medical verification of his condition  
12 to maintain that leave?  
13 A. I don't know, sir.  
14 Q. Okay. Does the Human Resources Department of  
15 AFS require once an employee goes on medical  
16 leave or short-term leave that they  
17 provide -- does it require any documentation  
18 so that they can continue on that leave?  
19 A. I don't know, sir.  
20 Q. Okay. Who would know?  
21 A. The best person to answer that would be the  
22 Human Resources Medical Services Program  
23 coordinator.

Page 56

1 Q. And who would that individual be or who would  
2 it have been in 2005?  
3 A. Currently it would be Ms. Penny Westrick.  
4 Q. All right. Do you know if she held that job  
5 at that time?  
6 A. I believe so, sir.  
7 Q. Do you have any knowledge of what kind of  
8 information would be provided to justify that  
9 leave, continuation of a leave?  
10 A. I'm sorry, sir. Question again.  
11 Q. Do you know what kind of information a doctor  
12 would need to supply in order to justify the  
13 continuation of the short-term disability  
14 leave?  
15 A. I don't understand, sir. I don't know of  
16 documentation that's required, therefore, I  
17 don't know what the doctor would have to  
18 submit.  
19 Q. Could you tell me what the company's  
20 procedures are for an individual to qualify  
21 for FMLA leave?  
22 A. The company's requirements are the same as  
23 the federal language.

Page 57

1 Q. How does the company implement those  
2 requirements of the federal language?  
3 A. How do you mean, sir?  
4 Q. I mean, what does the company require an  
5 individual to do?  
6 A. Thank you. An employee must fill out a  
7 request for family medical leave. And  
8 depending on the reason for medical  
9 certification from the Department of Labor,  
10 using a Department of Labor form, is received  
11 and the response is given from one of the HR  
12 managers.  
13 Q. Okay. What does an individual have to do in  
14 order to -- is there any requirement that an  
15 individual must do anything else in order to  
16 maintain the leave?  
17 A. How do you mean, sir?  
18 Q. Does the company require medical  
19 certification periodically in order to  
20 continue on FMLA leave?  
21 A. I don't know, sir. Once a person has been  
22 granted family medical leave, based on a  
23 doctor's certification which usually gives



SAMUEL HOUSTON v. ARMY FLEET SERVICES, LLC  
DEPOSITION OF ROBERT WHITNEY

2/21/2007

16 (Pages 58 to 61)

Page 58

1 the time, the inclusive time, is basically  
2 the -- the lack of authorization unless it's  
3 intermittent. If a -- if a person -- if  
4 their condition has changed such as if a  
5 doctor says a person should be given two  
6 weeks and their condition has not improved or  
7 has gotten worse, yes, they will have to have  
8 medical certification to extend it. If  
9 they're given 12 weeks and they want to  
10 return to work after six, yes, they'll have  
11 to have a doctor's release. But these aren't  
12 required to just inadvertently or --

13 Q. Okay.

14 MR. JACOBS: I'd like to mark this  
15 Plaintiff's Exhibit #5. I have  
16 a -- Monica, if I can get down in  
17 here and find it. It's the  
18 scheduler description. Here you  
19 go.

20 MS. GRAVELINE: Thank you.

21 Q. Do you recognize this document?

22 A. Yes, I do.

23 Q. What is it?

Page 59

1 A. This is the job description for an aircraft  
2 scheduler.

3 Q. As of 2005?

4 A. Yes, sir.

5 Q. Has that job description changed since 2005?

6 A. Not to my knowledge.

7 Q. I'd like you to review the requirements of  
8 this and ask you if there are any of those  
9 things that Mr. Houston's medical  
10 restrictions will prevent him from doing?

11 MS. GRAVELINE: Object to form.

12 A. I can't answer that question, sir.

13 Q. You can't answer that question?

14 A. I don't understand it.

15 Q. Okay. We can go through them, I guess, one  
16 by one. Was there anything regarding  
17 Mr. Houston's restrictions about lifting more  
18 than 25 pounds, not being able to stand for  
19 more than an hour and a half or sit for more  
20 than an hour and a half without a break or  
21 bend at the waist, to lift, pull, push, and  
22 so that would keep him from being able to  
23 review the aircraft requirements and

Page 60

1 availability of production and maintenance  
2 conditions and select assignments of  
3 aircraft --

4 A. When you said -- I'm sorry to interrupt, but  
5 when you had said review the requirements, I  
6 was looking at the bottom of this where it  
7 says requirements. I didn't know you were  
8 talking about the essential --

9 Q. Essential duties?

10 A. -- duties and responsibilities. Okay.

11 Yeah.

12 Q. If you would look at those and just tell me  
13 if there are any of those that he couldn't do  
14 or, you know, that he couldn't be  
15 accommodated.

16 A. Possibly.

17 Q. Which one possibly?

18 A. Number two.

19 Q. Number two is coordinates with flight and  
20 company departments to ensure that specific  
21 requirements are known and that aircraft are  
22 scheduled in accordance with policies or  
23 procedures. How would his restrictions

Page 61

1 prevent him from being able to do that?

2 A. The aircraft scheduler, to my knowledge, has  
3 to be able to interact not only from their  
4 basic work area, their -- their desk area,  
5 they also have to be able to go to other  
6 departments which can be as far as across the  
7 airfield a distance away, up and down stairs,  
8 and at points in time, meeting with different  
9 parts of the maintenance group to find out  
10 status on aircraft; such as, for me to find  
11 it, if the Army is requesting an aircraft for  
12 a specific type mission for a two-hour stint,  
13 I have to find that aircraft that best fits  
14 that configuration that has the closest  
15 amount of time on it before it goes into a  
16 type of maintenance. It's not something you  
17 can do from a desk and say, this aircraft  
18 goes here because it's ready, this one goes  
19 here. You have to also monitor your flight  
20 hours to maintenance hours and try to  
21 identify those aircraft by their maintenance  
22 status and when they're best available for  
23 the type of mission. So that means you're



SAMUEL HOUSTON v. ARMY FLEET SERVICES, LLC  
DEPOSITION OF ROBERT WHITNEY

2/21/2007

17 (Pages 62 to 65)

Page 62

1 having to go completely mobile.

2 Now, whether or not that is something  
3 that can be accommodated, in any  
4 circumstance, would not be my call. We  
5 would contact the field manager and let him  
6 know because each field is slightly  
7 different. But the first thing that would  
8 have to happen is he would have to request  
9 reclassification. His file would have to be  
10 reviewed. He would have to be qualified for  
11 the job, available for the job, and he would  
12 have to be an active employee to -- to  
13 request a position.

14 Q. I understand the company's position in that  
15 it's irrelevant because he wasn't an active  
16 employee, but I would like to try to make  
17 some determination. And you're telling me  
18 that the aircraft scheduler had to like  
19 physically go out and locate all of these  
20 aircrafts and determine their condition in  
21 order to know whether they could be scheduled  
22 for a flight or not?

23 A. No, sir, that's not what I said.

Page 63

1 Q. Okay. Well, that's what I understood you to  
2 say.

3 A. He has to be able to go from site to site.

4 Q. From what kind of site to what kind of site?

5 A. Within the airfield.

6 Q. Within the airfield?

7 A. Yes, sir.

8 Q. Okay. What kind of sites are in the  
9 airfield?

10 A. How do you mean, sir?

11 Q. Well, I don't know. You're telling me you'd  
12 have to go to site to site within the  
13 airfield.

14 A. Okay. Each field is differently configured.  
15 You have the Army, which is where we report  
16 to. You have aircraft records. You have  
17 maintenance. You have the director's  
18 office. And a scheduler has to be able to go  
19 from each of these and be able to maintain  
20 status.

21 Q. Does the company have a database that  
22 maintains that information?

23 A. Not to my knowledge.

Page 64

1 Q. So the scheduler has to physically go to each  
2 of these locations and make an assessment of  
3 the availability of aircraft?

4 A. To my knowledge, quite often they do but --

5 Q. How much knowledge do you have of the job of  
6 aircraft scheduler?

7 A. Only what's been told to me.

8 Q. And who has told you anything about the job  
9 of aircraft scheduler?

10 A. The field managers.

11 Q. Any other things there that you think  
12 couldn't be accommodated?

13 MS. GRAVELINE: Object to form.

14 A. Once again, I don't know because I wouldn't  
15 be the one making that determination.

16 Q. But you have some knowledge of the job?

17 A. Yes, sir, but I wouldn't be making the  
18 determination. Each field is different.

19 Q. I'm sorry, but you're the only one I've got  
20 here representing the company today. And you  
21 have some knowledge of the job. So --

22 A. Yes, sir.

23 Q. Is there anything else on there that you

Page 65

1 think couldn't be accommodated?

2 MS. GRAVELINE: Object to form. I  
3 think he's not qualified to answer  
4 these questions. And I don't  
5 recall this being a topic.

6 A. I don't know, sir.

7 Q. How does the company make a determination  
8 that a person is qualified for the position  
9 of flight scheduler?

10 A. The first thing that has to happen is a  
11 person has to request it.

12 Q. Well, suppose a person requests it. How does  
13 the company go about determining that they're  
14 qualified for it?

15 A. The human resource manager or the program  
16 coordinator for manpower will review the  
17 personnel file.

18 Q. And what would he look for in a personnel  
19 file? I mean, how would they know whether  
20 the person was qualified or not?

21 A. They would look for what's required in the  
22 job description.

23 Q. So everything that's in the job description

SAMUEL HOUSTON v. ARMY FLEET SERVICES, LLC  
DEPOSITION OF ROBERT WHITNEY

2/21/2007

18 (Pages 66 to 69)

Page 66

1 would have to be in the personnel file?  
2 A. Anything that's listed as education,  
3 experience, or requirements, yes, sir.  
4 Q. If it were a new applicant who didn't have a  
5 personnel file, how would you determine if  
6 they were qualified?  
7 A. There are two parts to that. Army Fleet  
8 Support primarily uses the Alabama State  
9 Employment Services, so all applicants are  
10 prescreened. If somehow or other a person  
11 gets through that and is either  
12 misrepresented or -- or somehow or other gets  
13 to the AFS recruiting site and they don't  
14 hold those requirements, they must have it in  
15 their possession when they get there. That's  
16 where the final check and balance is. Their  
17 documents are reviewed at the time of  
18 application.  
19 Q. Do you know if AFS has any knowledge of  
20 whether Mr. Houston can type 30 words a  
21 minute or not?  
22 A. No, sir.  
23 Q. I'd like to direct you to the responses to

Page 67

1 the request for admission. I believe you  
2 have that before you. I don't remember which  
3 one we marked it but --  
4 A. Is that #3?  
5 MS. GRAVELINE: I have it as #2.  
6 Q. I'd like to direct you to page 2 on number  
7 eight. I'm a little puzzled at the  
8 response. AFS admits that he was generally  
9 considered to perform satisfactorily through  
10 September the 1st but couldn't admit he did  
11 so all times.  
12 And other than that, you deny the  
13 request. Are you aware of any unsatisfactory  
14 performance by Mr. Houston during that time  
15 period?  
16 MS. GRAVELINE: Object to form.  
17 A. I don't know, sir. I'm not his supervisor.  
18 Q. Does the company have any record of any  
19 unsatisfactory performance?  
20 A. I don't know, sir.  
21 Q. All right. If there were any documents that  
22 would indicate that his performance was  
23 unsatisfactory, where would they be located?

Page 68

1 A. How do you mean, sir?  
2 Q. Well, it's kind of a hedged response. So  
3 what I want to know is if his work wasn't  
4 unsatisfactory, how would AFS know that?  
5 A. That would depend on the severity.  
6 Q. How would it depend on severity?  
7 A. Okay. And all I can do is -- is give  
8 examples which may or may not pertain to him.  
9 You come in to work and you get into an  
10 argument with another employee. We have work  
11 rules that preclude or prohibit -- I'm  
12 sorry -- not preclude but prohibit employee  
13 conflicts. Well, you have a conflict but  
14 it's resolved. Your first line supervisor  
15 resolves it right there. Whether it's your  
16 fault or not, you had an employee conflict.  
17 The supervisor can administer work rules and  
18 give you a letter or could just put an e-mail  
19 saying, please, watch whatever you do, or not  
20 produce a record at all. But there was still  
21 unsatisfactory performance. And once again,  
22 depending on severity would depend on whether  
23 or not the supervisor made a record or

Page 69

1 referred it to Labor Relations for formal  
2 action. So to answer at all times, I -- I  
3 can't answer that.  
4 Q. Okay. If there were a record of any  
5 unsatisfactory performance, would it be in  
6 these e-mails or other documents you've  
7 referred to?  
8 A. I've not said that there were e-mails.  
9 Q. I'm just asking you if there were. You said  
10 that the supervisor could put it in an e-mail  
11 or he could do something else. That's why I  
12 said e-mail.  
13 A. Yeah. A -- a supervisor could do that. Now,  
14 whether his supervisor did that or not, I  
15 don't know. And whether there was such a  
16 thing that required it, I don't know. I  
17 can't answer the question because it says at  
18 all times.  
19 Q. Yeah. And I accept that you don't know, but  
20 I'm asking you, If there were a record, where  
21 would it be?  
22 A. I don't know, sir.  
23 Q. You don't know the company keeps its records

SAMUEL HOUSTON v. ARMY FLEET SERVICES, LLC  
DEPOSITION OF ROBERT WHITNEY

2/21/2007

19 (Pages 70 to 73)

Page 70

1 of unsatisfactory performance of employees?  
2 A. Depending on severity, yes, sir.  
3 Q. Well, where are all the possible places that  
4 you could keep it depending on severity?  
5 MS. GRAVELINE: Object to form.  
6 A. I don't know, sir.  
7 Q. If I wanted to know if there were any  
8 unsatisfactory performance on the part of  
9 Mr. Houston, where would I have to look?  
10 A. Are you --  
11 MS. GRAVELINE: Object to form.  
12 A. Are you asking about disciplinary actions or  
13 unsatisfactory performance?  
14 Q. I'll ask you about both. In disciplinary  
15 actions, where would they be?  
16 A. Labor Relations.  
17 Q. And where is Labor Relations?  
18 A. Adjacent to Human Resources.  
19 Q. All right. Is that a department within the  
20 AFS Human Resources division?  
21 A. It is not, sir.  
22 Q. It is separate?  
23 A. Yes, sir.

Page 71

1 Q. Do you know who was in charge of that  
2 division in 2005 by any chance, the  
3 individual?  
4 A. Of what?  
5 Q. Of Labor Relations?  
6 A. The manager for Labor Relations is Mark  
7 Couch.  
8 MS. GRAVELINE: C-O-U-C-H.  
9 Q. How does Labor Relations differ from Human  
10 Resources?  
11 MS. GRAVELINE: I'm sorry. I was  
12 spelling for the court reporter.  
13 Q. How does Labor Relations differ from Human  
14 Resources?  
15 A. How do you mean, sir?  
16 Q. Well, I don't understand the distinction, so  
17 I'm just trying to find out how they're  
18 different. That's my ignorance about union  
19 work places, I suppose.  
20 A. Labor Relations is a separate function within  
21 Army Fleet Support. It's external to Human  
22 Resources. Human Resources process the  
23 day-to-day activities of all employees.

Page 72

1 Labor Relations is the negotiating body or  
2 representative of AFS to the union.  
3 Q. All right. So if an employee were  
4 disciplined, it would go to Labor Relations,  
5 not to HR?  
6 A. Yes, sir.  
7 Q. Okay. Let's suppose -- well, are employees  
8 evaluated on their job performance by AFS --  
9 MS. GRAVELINE: Object to form.  
10 Q. -- formally?  
11 A. How do you mean, sir?  
12 Q. Well, in various jobs I've held, my  
13 supervisor conducted a job evaluation and  
14 that was put somewhere. Are AFS employees  
15 evaluated on the job by their supervisors  
16 formally?  
17 A. Once again, we have two parts of employees  
18 hourly and management. Are you talking all  
19 AFS --  
20 Q. Let me ask you about hourly since that's  
21 what Mr. Houston was.  
22 A. Thank you. And are they evaluated?  
23 Q. Yes. Is there a formal evaluation process?

Page 73

1 A. Only during the probationary period, which is  
2 at 30, 60, and 85 days.  
3 Q. And I didn't hear the -- it's a 36?  
4 MS. GRAVELINE: 30, 60, 85.  
5 A. 30, 60, and 85 days.  
6 Q. Oh, okay.  
7 A. It's a performance evaluation for hourly  
8 employees, and that's only during the  
9 probational period. I'm sorry. I'm not a  
10 loud person.  
11 Q. Then it would be appropriate for me to  
12 conclude that Mr. Houston was never subjected  
13 to any formal job evaluation by AFS since his  
14 seniority would have put him beyond that  
15 point when AFS took over?  
16 A. I'm not --  
17 MS. GRAVELINE: Object to form.  
18 A. I'm not aware of any.  
19 Q. Okay. Number 10.  
20 A. On?  
21 Q. The request for admissions. Just want -- I'm  
22 basically clarifying a few things now. I  
23 asked --



SAMUEL HOUSTON v. ARMY FLEET SERVICES, LLC  
DEPOSITION OF ROBERT WHITNEY

2/21/2007

20 (Pages 74 to 77)

Page 74

1 MS. GRAVELINE: Plaintiff's #2.  
2 Q. I asked AFS to indicate that the -- or to  
3 admit that the defendant, AFS, did not offer  
4 to consider any accommodations that would  
5 permit the plaintiff to remain employed. And  
6 that was denied, they said. What  
7 accommodations did AFS consider that would  
8 have permitted Mr. Houston to remain  
9 employed?  
10 A. To my knowledge, there was no request for  
11 accommodation from Mr. Houston nor was any  
12 request -- no request for accommodation was  
13 stated by Mr. Houston. Sorry.  
14 Q. Mr. Houston didn't ask to be reclassified as  
15 an aircraft scheduler?  
16 A. No, sir, he did not.  
17 Q. Verbally he did not ask to be reclassified as  
18 an aircraft scheduler?  
19 A. To my knowledge, at no time did Mr. Houston  
20 ask to be reclassified to an aircraft  
21 scheduler.  
22 Q. Number 11. Well, I'm not finished with ten.  
23 Excuse me. Were there any accommodations

Page 75

1 that were considered that would permit him to  
2 remain employed by the company whether he  
3 requested them or not?  
4 MS. GRAVELINE: Object to form.  
5 A. The company cannot make assumptions about a  
6 person's limitations or restrictions. If a  
7 person feels they have restrictions as such  
8 that they would like to request -- would like  
9 to request accommodations, they have to state  
10 so. And then those accommodations can be  
11 evaluated in a two-way communication. To my  
12 knowledge, when Mr. Houston returned and an  
13 hourly employee talked to him and asked him  
14 if he would consider an alternative position  
15 such as a clerical scheduler position,  
16 Mr. Houston rejected that offer, although the  
17 hourly employee could not make a contractual  
18 offer the company or the union would have  
19 to -- have to live by.  
20 Q. Who was that hourly employee that made an  
21 offer to him of some alternative assignment?  
22 MS. GRAVELINE: Object to form.  
23 Q. Is there a record of that offer having been

Page 76

1 made?  
2 A. By, say, a summation of the facts, yes.  
3 Q. And where is that summation of facts?  
4 A. In Mr. Houston's complaint to the OFCCP where  
5 he states that he returned, an HR person  
6 suggested to him that he consider a position  
7 such as aircraft scheduler but that he would  
8 have to be able to type 30 words a minute.  
9 In speaking with the hourly employees who  
10 would have received him, they recall having  
11 conversations with Mr. Houston and that when  
12 Mr. Houston was told to consider or consider  
13 a -- a clerical position such as, he became  
14 upset, demanded to go back as an aircraft  
15 mechanic, and he left.  
16 Q. Is there a record of that conversation  
17 anywhere?  
18 A. Not my knowledge sir.  
19 Q. And you don't know who the individual was  
20 that reports that that conversation took  
21 place?  
22 A. In discussing with our hourly employees, the  
23 two primary persons who received him and

Page 77

1 advised him on his options were the shop  
2 steward, Ms. Jo Ann Camarata, and the other  
3 hourly employee Ms. Cathy Jeffers.  
4 Q. So are those the two HR representatives that  
5 he dealt with when he brought his first  
6 return-to-work form and his second return-to-  
7 work form to AFS?  
8 A. Those are the hourly employees from HR he  
9 would have seen.  
10 Q. And did either one of those make a written  
11 record of their contact with Mr. Houston on  
12 those dates?  
13 A. Not to my knowledge, sir.  
14 Q. Subsequent to those dates, have they made any  
15 written record of their encounters with  
16 Mr. Houston on those dates?  
17 A. Mr. Houston has come in to apply for  
18 benefits, for his continued benefits, and  
19 they've received him and processed his  
20 paperwork.  
21 Q. That would have been after the incidence  
22 where he came and brought his return to work  
23 form?



SAMUEL HOUSTON v. ARMY FLEET SERVICES, LLC  
DEPOSITION OF ROBERT WHITNEY

2/21/2007

21 (Pages 78 to 81)

Page 78

1 A. That would be subsequent, yes, sir.  
 2 Q. Have these two individuals that you named,  
 3 Ms. Jeffers and who was the other?  
 4 A. Camarata.  
 5 Q. Camarata. Have either one of those made any  
 6 written record of their encounter with  
 7 Mr. Houston on those two occasions subsequent  
 8 to those dates?  
 9 A. Are you asking if they have produced after  
 10 the fact documents of their previous  
 11 encounters or --  
 12 Q. Yes.  
 13 A. -- documentation as to encounters after the  
 14 fact?  
 15 Q. I'm asking you if on those two dates, one of  
 16 which we believe was March the 10th or March  
 17 the 7th -- and I will admit there is some  
 18 confusion as to that date. I think it's  
 19 March the 7th -- and March the 14th when  
 20 Mr. Houston came to the HR office in  
 21 Daleville and presented a return-to-work  
 22 form, he interacted with two HR  
 23 professionals. Those individuals, according

Page 79

1 to what you told me were Ms. Camarata and  
 2 Ms. Jeffers. Subsequent to those dates, have  
 3 either of those individuals made any record,  
 4 any documentation of their interaction and/or  
 5 conversation with Mr. Houston on those  
 6 dates?  
 7 A. About the previous encounters when he came  
 8 back for --  
 9 Q. Right, about the previous encounters.  
 10 A. Thank you, sir. Thank you. Not to my  
 11 knowledge.  
 12 Q. And your knowledge today is the company's  
 13 knowledge.  
 14 A. Yes, sir.  
 15 Q. And you've already told me that they didn't  
 16 make a contemporaneous record other than the  
 17 fact that he just -- when he signed in, there  
 18 was a record that he came.  
 19 A. Yes, sir.  
 20 Q. Number 12, it's a little more information  
 21 here. I asked if reasonable accommodations  
 22 were available, who would have permitted the  
 23 plaintiff, Mr. Houston, to transfer to

Page 80

1 another position with the defendant. And  
 2 there is a denial along with the explanation  
 3 that he failed to submit a status-change form  
 4 as required by the Collective Bargaining  
 5 Agreement and, therefore, was ineligible.  
 6 And I think we've been through that. You  
 7 told me that he had to be an active employee  
 8 in order to request a transfer. Is that  
 9 correct, according to the Collective  
 10 Bargaining Agreement?  
 11 A. Yes, sir.  
 12 Q. Therefore, he couldn't transfer to another  
 13 position; is that correct?  
 14 MS. GRAVELINE: Object to form.  
 15 A. How do you mean, sir? I'm sorry. Please.  
 16 Q. If he had to be an active employee to request  
 17 a transfer, I assume that you're telling me  
 18 that he couldn't be transferred to another  
 19 position since he wasn't an active employee.  
 20 A. Yes, sir.  
 21 Q. To go back to the request for admission, were  
 22 there reasonable accommodations available  
 23 that would have been permitted him to

Page 81

1 transfer to another position?  
 2 A. Are you talking about number 12?  
 3 Q. Yes. Whether he asked for them or not or  
 4 whether he was an active employee or not,  
 5 were there reasonable accommodations  
 6 available if he had been transferred to  
 7 another position?  
 8 A. I can't make that decision, sir, for several  
 9 reasons.  
 10 Q. Okay.  
 11 A. Bear with me.  
 12 Q. Name them for me.  
 13 A. Thank you. The first off is we don't know  
 14 what he would have requested. Therefore, we  
 15 would have had to have first off looked to  
 16 see what he's requesting, is he qualified, is  
 17 the position available, does he meet the  
 18 fundamental job -- requirement of the  
 19 description, and could he be accommodated.  
 20 Obviously, if -- if you are a -- an  
 21 aircraft mechanic and you suffer from vertigo  
 22 and you request a reasonable accommodation  
 23 and the only thing available is a pilot, can

SAMUEL HOUSTON v. ARMY FLEET SERVICES, LLC  
DEPOSITION OF ROBERT WHITNEY

2/21/2007

22 (Pages 82 to 85)

Page 82	Page 84
<p>1 I give you a pilot's position? No. Because</p> <p>2 once again, that can't be accommodated. If</p> <p>3 you're a mechanic and your lifting</p> <p>4 restrictions are 25 pounds and the only thing</p> <p>5 available is a sheet metal mechanic who lifts</p> <p>6 more than an aircraft mechanic, I can't just</p> <p>7 say, well, we can move here because we're</p> <p>8 going to make a reasonable accommodation,</p> <p>9 move you to another classification. I can't</p> <p>10 do that unless, first off, you identify what</p> <p>11 you are requesting to fall within a provision</p> <p>12 of CBA 35.2.</p> <p>13 We then look at your personnel file,</p> <p>14 make sure that you're qualified, meet</p> <p>15 provisions of job description. Then once</p> <p>16 again, we would have to contact that field</p> <p>17 manager and see under this classification,</p> <p>18 you know, as an active employee under this</p> <p>19 classification, can you be accommodated in</p> <p>20 that because the other classifications also</p> <p>21 require certain -- certain functional</p> <p>22 capacity. Does that make sense, sir?</p> <p>23 Q. Okay. Is it AFS's position that if an</p>	<p>1 circumvented other people who had a request</p> <p>2 on file.</p> <p>3 Q. Is it your position AFS would have no</p> <p>4 obligation to discuss that with the</p> <p>5 individual?</p> <p>6 MS. GRAVELINE: Object to the form. I</p> <p>7 think he's answered this question.</p> <p>8 A. The individual has to request and state that</p> <p>9 they are requesting an accommodation.</p> <p>10 Q. A specific accommodation?</p> <p>11 A. There has to be two-way communication.</p> <p>12 Q. Certainly.</p> <p>13 A. When Army Fleet Support bargaining unit</p> <p>14 personnel suggested to Mr. Houston, have you</p> <p>15 considered a position such as, Mr. Houston</p> <p>16 refused those and left. There was no two-way</p> <p>17 communication.</p> <p>18 Q. Which AFS bargaining personnel suggested that</p> <p>19 he consider a position such as an aircraft</p> <p>20 scheduler?</p> <p>21 A. To the best of our knowledge, in conversation</p> <p>22 and through investigation and preparation of</p> <p>23 the responses to the -- to various agencies,</p>
Page 83	Page 85
<p>1 individual who has physical limitations such</p> <p>2 as Mr. Houston did when he came back work</p> <p>3 does not specifically request another</p> <p>4 position, that the company has no obligation</p> <p>5 to explore that option with him?</p> <p>6 MS. GRAVELINE: Object to form.</p> <p>7 A. How do you mean, sir?</p> <p>8 Q. I mean, if Mr. Houston came back to work with</p> <p>9 those physical restrictions and absolutely,</p> <p>10 as you testified, didn't ask for another</p> <p>11 position, is it your testimony on behalf of</p> <p>12 the company that the company has no</p> <p>13 obligation to consider any potential other</p> <p>14 accommodation for him?</p> <p>15 MS. GRAVELINE: Object to form.</p> <p>16 A. The company can't make an assumption as to</p> <p>17 what a person's intent for reclassification</p> <p>18 is. When -- if I circumvent Article 35 and,</p> <p>19 once again, you come back with limitations or</p> <p>20 restrictions, well, I'm just going to put you</p> <p>21 in this classification. I've changed your</p> <p>22 conditions of employment. I've changed your</p> <p>23 pay. I've changed your -- I may have even</p>	<p>1 we believe it to have been Ms. Jeffers and</p> <p>2 Camarata.</p> <p>3 Q. But there is no record that they made such an</p> <p>4 offer?</p> <p>5 A. How do you mean, sir?</p> <p>6 Q. There is no paperwork that shows that they</p> <p>7 made that offer and that it was refused, is</p> <p>8 there?</p> <p>9 A. Only through his own statement that that did</p> <p>10 happen and that the individuals confirm that</p> <p>11 they had discussions which included that. So</p> <p>12 since both agreed that HR representatives did</p> <p>13 suggest this to him and that he did not come</p> <p>14 back and request such a position.</p> <p>15 Q. Are you aware that Mr. Houston gave a</p> <p>16 deposition yesterday?</p> <p>17 A. Yes, sir.</p> <p>18 Q. I want to show you what was marked in that</p> <p>19 deposition as Defendant's Exhibit Number 17,</p> <p>20 a rather lengthy document. And I'll show it</p> <p>21 to you, and it's what was offered as the</p> <p>22 Collective Bargaining Agreement that was in</p> <p>23 effect in 2005. I believe it's still in</p>

SAMUEL HOUSTON v. ARMY FLEET SERVICES, LLC  
DEPOSITION OF ROBERT WHITNEY

2/21/2007

23 (Pages 86 to 89)

Page 86

1 effect, isn't it?

2 A. No, sir.

3 Q. Is there a new agreement?

4 A. Yes, sir.

5 Q. When was the new agreement adopted?

6 A. May 2005.

7 Q. I want to show you Section 35.1 which is on

8 page 92 of the agreement. Could you read for

9 me the language in that agreement that

10 prevented Mr. Houston's -- any accommodation

11 for Mr. Houston?

12 MS. GRAVELINE: Object to form.

13 A. How do you mean, sir?

14 Q. The language that permitted him to be

15 reclassified into another position.

16 A. When a vacancy occurs within a bargaining

17 unit classification other than that or as a

18 result of lay-off, it will be assigned to

19 employees on the active payroll.

20 Q. Okay. So that's the basis for the contention

21 that since he was not on the active payroll,

22 he could not be reclassified, correct?

23 A. How do you mean, sir?

Page 87

1 Q. Well, I'm trying to determine the basis. But

2 it's AFS's position, if I can restate it --

3 and you can change what I say if I'm not

4 correct. But it's AFS's position, as I

5 understand it, that you could not offer the

6 accommodation of transfer to another position

7 to Mr. Houston because he was not an active

8 employee because the union contract would

9 prevent it. Is that the language that the

10 company is relying on?

11 A. I -- I want to make sure I understand your

12 question, sir.

13 Q. Okay.

14 A. The first piece of language -- you ready --

15 is 35.2a which is employees must file a

16 separate status change request form for each

17 classification, bonus paid job, assignment

18 work week, or location desired. The second

19 part of language is 35.1 which states will be

20 assigned to employees on the active payroll.

21 Under 35.14, employees who become unable to

22 perform the duties and responsibilities of

23 the classification --

Page 88

1 Q. Slow down.

2 A. 35.14, employees who become unable to perform

3 the duties and responsibilities of the

4 classification or with permanent disability

5 or who cannot be accommodated as such the

6 accommodations defined or required by federal

7 law, which we already understand Mr. Houston

8 does not fall under, shall be allowed to

9 exercise his options under the lay-off

10 procedures for positions which he is able to

11 perform or shall be given a leave of absence

12 in accordance with Article 5.

13 Now, you've not given me Article 5 or

14 4.7, which is also referred. But those, the

15 intent of the language, which you have the

16 written language which is -- it started over

17 in 1951 has been run through over 18

18 different vendors or -- I'm sorry -- 18

19 different negotiations throughout history,

20 this is not the best language. Then you rely

21 on if the language is not clear, you go with

22 the intent of the language which is a person

23 who is not active does not have bumping

Page 89

1 rights to an active employee. The second

2 part is -- I just lost my train of thought

3 when I heard that going off. I'm sorry. The

4 second part --

5 Q. The second part that he doesn't have bumping

6 rights.

7 A. And the second part is the sustainment of an

8 employee's rights to reinstatement for up to

9 five years or length of employment,

10 protecting a person's job should they become

11 well enough to come back and fulfill the

12 primary functions of their job as they left.

13 Okay.

14 Q. Okay.

15 A. I didn't write it. Sorry.

16 Q. And that is what the company relies on for

17 Mr. Houston's status?

18 A. The language is presented past practice, and

19 the intent of the language protect those on

20 the active payroll. Yes, sir.

21 Q. As the individual at AFS who is responsible

22 for compliance with the ADA, are you

23 satisfied that that complies with the



SAMUEL HOUSTON v. ARMY FLEET SERVICES, LLC  
DEPOSITION OF ROBERT WHITNEY

2/21/2007

24 (Pages 90 to 93)

Page 90	Page 92
<p>1 requirements of the ADA?</p> <p>2 A. Yes, sir.</p> <p>3 MR. JACOBS: It's eleven o'clock.</p> <p>4 We'll take a break.</p> <p>5 (Brief recess)</p> <p>6 Q. Mr. Whitney, between September the 2nd of</p> <p>7 2004 and March the 14th of 2005, was</p> <p>8 Mr. Houston an active employee or an inactive</p> <p>9 employee?</p> <p>10 A. Mr. Houston became an inactive employee for</p> <p>11 purposes of benefits administration as of 30</p> <p>12 days. His 31st day he goes into a different</p> <p>13 status under the CBA for his benefits. At</p> <p>14 the end of the six months, which is what</p> <p>15 you're referring to, the end of his short-</p> <p>16 term disability, his status actually goes</p> <p>17 into an extended -- extended leave of absence</p> <p>18 as covered under a separate article which is</p> <p>19 his reinstatement rights.</p> <p>20 Q. For other purposes other than benefits</p> <p>21 continuation, was Mr. Houston an active</p> <p>22 employee or an inactive employee from</p> <p>23 September the 2nd of 2004 to March the 14th</p>	<p>1 AFS?</p> <p>2 A. This is one of them, yes, sir.</p> <p>3 Q. And there was an earlier one, as I understand</p> <p>4 it; is that correct?</p> <p>5 A. That's not what I was referring to, sir. It</p> <p>6 was the associated letter from Dr. Manski or</p> <p>7 from Mr. Manski or Dr. Manski that stated he</p> <p>8 could not -- company that said he could not</p> <p>9 stay under the classification of aircraft</p> <p>10 mechanic.</p> <p>11 Q. So there was a letter that came along with</p> <p>12 this?</p> <p>13 A. That Mr. Houston brought with him, yes, sir.</p> <p>14 Q. Okay.</p> <p>15 MR. JACOBS: Mark this as</p> <p>16 Plaintiff's #7.</p> <p>17 Q. This is the return-to-work slip. She's going</p> <p>18 to give you that one. Would you identify</p> <p>19 this document for me?</p> <p>20 A. Yes, sir. This is a return-to-work slip</p> <p>21 dated 3/14/05.</p> <p>22 Q. It says Army Fleet Support. Is this a</p> <p>23 standard form that AFS uses?</p>
Page 91	Page 93
<p>1 of 2005?</p> <p>2 A. Once again, his active status would have</p> <p>3 ended after 30 days.</p> <p>4 Q. For all purposes?</p> <p>5 A. Yes, sir.</p> <p>6 Q. Okay. Just a few things here I'd like to</p> <p>7 identify. I think they've all already been</p> <p>8 admitted. And if you want me to pull out</p> <p>9 copies, I can, but --</p> <p>10 MS. GRAVELINE: Were they things that</p> <p>11 were admitted yesterday?</p> <p>12 MR. JACOBS: Yes, I think so.</p> <p>13 MS. GRAVELINE: I've got a stack.</p> <p>14 Q. The first one will be Plaintiff's #6.</p> <p>15 MS. GRAVELINE: Defendant's #6?</p> <p>16 MR. JACOBS: No. I'm going to call it</p> <p>17 Plaintiff's #6.</p> <p>18 Q. This is the return to -- the medical excuse</p> <p>19 from Dr. Manski. Do you recognize that</p> <p>20 document?</p> <p>21 A. Yes, sir.</p> <p>22 Q. Is that the return-to-work authorization from</p> <p>23 Dr. Manski that Mr. Houston brought back to</p>	<p>1 A. Yes, it is, sir.</p> <p>2 Q. Okay. And the individual who signed this is</p> <p>3 Penny Westrick?</p> <p>4 A. Yes, sir.</p> <p>5 Q. What is the relevance of the numbers after</p> <p>6 her name?</p> <p>7 A. I'm sorry, sir. That's her badge number, her</p> <p>8 employee ID.</p> <p>9 Q. The reference here to see attached where it</p> <p>10 says authorized to return to work on 3/14,</p> <p>11 would they be the -- do you think it would be</p> <p>12 the letter that you've referred to?</p> <p>13 A. Anytime there are restrictions that exceed</p> <p>14 the amount of writing space, they'll just</p> <p>15 use, see attached; and that would be any</p> <p>16 letter that was provided by a doctor.</p> <p>17 Q. And then the block where it indicates able to</p> <p>18 accommodate medical restrictions, cannot, I</p> <p>19 believe we've talked about Don Donley. Was</p> <p>20 that the field director? Who was Don Donley?</p> <p>21 A. Mr. Don Donley was the field manager for</p> <p>22 Army -- Aviation Technical Test Center, ATTC.</p> <p>23 Q. Where is that physically located?</p>

SAMUEL HOUSTON v. ARMY FLEET SERVICES, LLC  
DEPOSITION OF ROBERT WHITNEY

2/21/2007

25 (Pages 94 to 97)

Page 94

1 A. Within Cairns Field just outside of  
2 Daleville, Alabama.  
3 Q. Who is Bill Parsons?  
4 A. At that time, Mr. Bill Parsons was the field  
5 manager for Lowe Field.  
6 Q. All right. And just to be sure I picked up  
7 on the distinction, Donley was a field  
8 director?  
9 A. Field director, field manager. They're  
10 synonymous.  
11 Q. They're interchangeable?  
12 A. They are synonymous.  
13 Q. And Larry Larkin, who was that?  
14 A. Mr. Larry Larkin was and still currently is  
15 the field manager for Cairns.  
16 Q. And Bob Chipman?  
17 A. Mr. Bob Chipman was at that time the field  
18 manager for Knox Army Airfield.  
19 Q. And those are all separate locations where  
20 aircraft mechanics work for AFS?  
21 A. Yes, sir. Each airfield has a different type  
22 of aircraft. As the Army students come  
23 through, they train on the primary aircraft

Page 95

1 at Cairns, which is a trainer. And then they  
2 go from there to their specific assigned  
3 aircraft. Knox Army Airfield will be a CH-47  
4 Chinook. Bill Parsons would be Lowe Army  
5 Airfield, which would be Black Hawks.  
6 Q. Okay. AA --  
7 A. ATTC.  
8 Q. ATTC is also a field as well?  
9 A. Per se. ATTC is almost a contract within a  
10 contract. As I stated, each Army airfield  
11 conducts student training. They have a  
12 specific type of aircraft. However, within  
13 the contract that Army Fleet Support has, a  
14 separate entity within it is called ATTC.  
15 They're funded separately; they're operated  
16 separately by a different contracting  
17 officer. They still file -- fall under the  
18 hierarchy and shared services of AFS.  
19 Q. Okay.  
20 A. However, ATTC is considered a separate field  
21 by the collective bargaining agreement. Each  
22 one is separately identified under Article 35  
23 whatever. It's -- it's in there. They're

Page 96

1 all separately identified. And that's -- the  
2 only impact that has is each one has to be a  
3 request. Remember under Article 35.2, each  
4 request has to be filed separately. So if I  
5 want to be on second shift, I have to file a  
6 request for second. If I want to be on third  
7 shift, I have to request third shift. If I  
8 want to go from Hanchey Field to Lowe Field,  
9 I must request a separate field. Okay. So  
10 each -- each one is submitted separately.  
11 Q. So each one of these locations are places  
12 where an aircraft mechanic could or would  
13 work?  
14 A. Yes, sir.  
15 Q. Would aircraft schedulers also work at all of  
16 those locations?  
17 A. Yes, sir.  
18 Q. All right.  
19 MR. JACOBS: Mark this one as next  
20 Plaintiff's exhibit. What number  
21 is it going to be?  
22 COURT REPORTER: #8.  
23 MR. JACOBS: #8?

Page 97

1 Q. Could you identify this form for me?  
2 A. Yes, sir. This is --  
3 Q. Please do.  
4 A. This is a personal status change request  
5 form. This is called a 212 form. It -- this  
6 one is an automated system document under the  
7 old HRIS called PRISM, P-R-I-S-M.  
8 Q. Okay. What's the purpose of this form?  
9 A. To identify a change of status.  
10 Q. What change is reported on this form?  
11 A. This is moving a person into inactive status.  
12 Q. Does it indicate where they were moved from?  
13 A. Yes, sir, Department 40.  
14 Q. What is Department 40?  
15 A. Inactive employee extended illness.  
16 Q. I notice it has the word "direct." Is there  
17 some other kind of extended illness other  
18 than a direct?  
19 A. No, sir. Direct and indirect employees are a  
20 government funded definition. In other  
21 words, those persons who handle aircraft,  
22 physically handle, aircraft mechanic, sheet  
23 metal -- any of those classifications that

SAMUEL HOUSTON v. ARMY FLEET SERVICES, LLC  
DEPOSITION OF ROBERT WHITNEY

2/21/2007

26 (Pages 98 to 101)

Page 98

1 the government funds are called direct.  
 2 Those are considered not overhead. But  
 3 associated with the mission such as supply,  
 4 clerical support, are considered indirect and  
 5 are funded separately from the government or  
 6 funded differently from the government.  
 7 Q. Okay. That's an accounting term, really, I  
 8 guess.  
 9 A. Yes, sir.  
 10 Q. I understand the effective date. The  
 11 location, colon, inactive department, slash,  
 12 Don. What does that mean?  
 13 A. I'm sorry. Where -- where are you looking?  
 14 Q. I'm in the second line. It says effective  
 15 date 3/14/05.  
 16 A. Yes, sir, the inactive department. All  
 17 inactive employees were assigned to Donnell,  
 18 which is the location of HR. And that was  
 19 nothing more than, once again, an accounting  
 20 mechanism. When a person stays out 30 days  
 21 or greater, you cannot put a person in that  
 22 slot if there's already a person in it. You  
 23 had to physically move them out into HR into

Page 99

1 a department called Department 40.  
 2 Q. Do persons in Department 40 have a  
 3 supervisor?  
 4 A. No, sir. They have their old supervisor.  
 5 Once again, this is -- this is an old  
 6 mainframe program that did not allow for  
 7 multiple options.  
 8 Q. So they were classified into an inactive  
 9 department at Donley (sic), but they still  
 10 had their old supervisor.  
 11 A. Yes, sir, Donnell.  
 12 Q. Whomever that would have been. As I look  
 13 down the form on the left underneath the  
 14 hours, I see the word "termination," colon,  
 15 and the letter S. What does the letter S  
 16 mean?  
 17 A. The letter S means inactive status,  
 18 extended -- extended benefits.  
 19 Q. Okay. Extended benefits.  
 20 A. Yes, sir. Reinstatement rights.  
 21 Q. Yeah.  
 22 A. If it were termination code C, it means  
 23 voluntary quit. You came in and you left.

Page 100

1 If it was termination code F, it means all  
 2 provisions had been severed.  
 3 Q. And I noticed it says the reason for change  
 4 is nine. Does that stand for involuntary  
 5 termination?  
 6 A. Yes, sir.  
 7 Q. All right.  
 8 A. Once again, it's generic code for archaic  
 9 language. This whole program has been gutted  
 10 and completely replaced. We were  
 11 dissatisfied with it from the day AFS came on  
 12 board.  
 13 Q. All right. Who is this that signed as  
 14 department head, R --  
 15 A. I can't read that writing, sir. It would  
 16 have -- I'm sorry.  
 17 Q. Yeah, I was going to ask you if you could  
 18 tell me --  
 19 A. It would -- it would have been the manager,  
 20 whichever manager at the field would have  
 21 out-processed him to ensure that he turned in  
 22 the keys or access to ATTC, especially ATTC.  
 23 Q. So this form and this information was entered

Page 101

1 at what location, at over in Daleville or  
 2 somewhere else?  
 3 A. HR, Donnell.  
 4 Q. And that's in Daleville?  
 5 A. Yes, sir.  
 6 Q. At that shopping center you were referring  
 7 to?  
 8 A. Yes, sir.  
 9 Q. All right. Is it the department head there  
 10 that would have signed this?  
 11 A. No, sir.  
 12 Q. Okay. So where would this department head,  
 13 R, whatever it is, I can't make it out --  
 14 where would they have been located?  
 15 A. Well, it would have been a person from ATTC,  
 16 the one who would have received his supplies,  
 17 tool crib, badge, his permits, anything that  
 18 would have given him access to ATTC.  
 19 ATTC is one of the only classified areas  
 20 on the contract. I'm sorry if I'm speaking  
 21 too fast. You must be on the access roster  
 22 and you must have a need to know or need to  
 23 be in that area. The items that they work on



SAMUEL HOUSTON v. ARMY FLEET SERVICES, LLC  
DEPOSITION OF ROBERT WHITNEY

2/21/2007

27 (Pages 102 to 105)

Page 102

1 are classified.  
 2 Q. Is this a form that Mr. Houston would have  
 3 had to have physically taken over to ATTC to  
 4 get signed?  
 5 A. Yes, sir.  
 6 Q. So at some point, after this form was  
 7 completed by Ms. Westrick, would he have then  
 8 taken this form to have it completed?  
 9 A. Yes, sir.  
 10 Q. And this form would have been generated at  
 11 Donley?  
 12 A. Donnell, yes, sir.  
 13 Q. Donnell, Donnell. And then I notice down at  
 14 the bottom there are various departments in  
 15 personnel and initials on those. Are those  
 16 additional places that Mr. Houston would have  
 17 had to have taken this form and get signed  
 18 off? For example, if he'd cleared supply and  
 19 the tool crib and --  
 20 A. Yes, sir.  
 21 Q. And turned in his badge and so on; is that  
 22 correct?  
 23 A. Yes, sir.

Page 103

1 MR. JACOBS: I'd like to mark this as  
 2 #10.  
 3 COURT REPORTER: Should be #9.  
 4 MR. JACOBS: #9? Okay. I thought the  
 5 last one was #9.  
 6 MS. GRAVELINE: You need to take a  
 7 break to catch that call?  
 8 MR. JACOBS: I'm just about finished  
 9 so --  
 10 THE WITNESS: I do apologize for this.  
 11 (Brief recess)  
 12 Q. Let me ask you if this page goes with that  
 13 page. I couldn't quite determine the way  
 14 they were given to me, or are those two  
 15 separate documents?  
 16 A. Okay. These are two separate documents.  
 17 Q. Well, then, we'll just handle them  
 18 separately.  
 19 A. And please bear with me. They're two  
 20 separate documents because they're two  
 21 separate transactions, but they happened  
 22 simultaneously. I'm thankful every day that  
 23 we came off the mainframe.

Page 104

1 Q. On Plaintiff's #9, could you tell me what  
 2 this document is? It's titled Personnel  
 3 Action.  
 4 A. Yes, sir. At the very, very bottom, you see  
 5 the number 2-12. That's the name of the  
 6 document. It is a personnel action. This  
 7 document is used to record any changes in  
 8 status, and it goes basically through all the  
 9 primary fields that an employee's record  
 10 would have with the exception of insurance.  
 11 And that's the next form that you saw.  
 12 Q. Well, let's go ahead and put it in as  
 13 Plaintiff's #10.  
 14 A. Yes, sir.  
 15 Q. So you stated to me that these forms were  
 16 generated simultaneously. And I notice at  
 17 the top of the form, I see Army Fleet Support  
 18 Personnel Action, 3/15/05, which I presume is  
 19 the date. Is 10:04 the time the form was  
 20 generated?  
 21 A. The 10:04 would either be the time the form  
 22 was generated or the time it was processed.  
 23 Once again, these are -- this is an archaic

Page 105

1 mainframe program that -- that I've given my  
 2 life's effort to forget because you had to  
 3 memorize all the codes. You had to go in and  
 4 do a line-by-line. It was an old DOS  
 5 program. But you would literally go from  
 6 this screen (indicating) which you would do  
 7 all your transactions, and then you would go  
 8 to the next screen (indicating). Each one is  
 9 processed separately, but when you go,  
 10 they -- they pretty much happen  
 11 simultaneously.  
 12 Q. Okay. If I could direct you to Plaintiff #9,  
 13 which is the form that has the most writing  
 14 on it.  
 15 A. Yes, sir.  
 16 Q. Now, I understand most of that, I think. On  
 17 the reason for action, that's followed by the  
 18 letters LMB. What does LMB stand for?  
 19 A. Lisa someone Beasley. I don't know her  
 20 middle name.  
 21 Q. That's an individual?  
 22 A. Yes, sir.  
 23 Q. And I believe we may have discovered the

SAMUEL HOUSTON v. ARMY FLEET SERVICES, LLC  
DEPOSITION OF ROBERT WHITNEY

2/21/2007

28 (Pages 106 to 109)

Page 106	Page 108
<p>1 mysterious signature on the previous</p> <p>2 exhibit. It indicates the supervisor is</p> <p>3 named Reddick?</p> <p>4 A. Okay.</p> <p>5 Q. Do you remember any individual named Reddick,</p> <p>6 Mr. or Ms. Reddick? It says Reddick, RD.</p> <p>7 A. I can only say I'm almost positive I know who</p> <p>8 that is, Mr. Reddick. There was a</p> <p>9 Mr. Reddick or there is a Mr. Reddick at</p> <p>10 ATTC. I've not dealt with ATTC in over a</p> <p>11 year except for on security issues.</p> <p>12 Q. But that person that you can recall is a</p> <p>13 supervisor at ATTC?</p> <p>14 A. No, I recall a Mr. Reddick. I don't remember</p> <p>15 his position.</p> <p>16 Q. Okay. As I look down the form toward the</p> <p>17 bottom, I notice several notations regarding</p> <p>18 OPT DEP INS colon A. Is that something to do</p> <p>19 with insurance?</p> <p>20 A. Optional dependent insurance was selected as</p> <p>21 Level A. His vision plan, he selected Level</p> <p>22 2. Dependent health insurance was denied --</p> <p>23 or declined actually. Bond deduction amount</p>	<p>1 (indicating). So when you do this form</p> <p>2 first, it shows that he had optional</p> <p>3 dependent insurance at Level A, vision plan</p> <p>4 Level 2. Under here, it says optional</p> <p>5 dependent insurance declined. Vision plan</p> <p>6 was zeroed. So in other words, it was not</p> <p>7 elected or not offered, whichever. The codes</p> <p>8 don't allow for that, but the D is declined.</p> <p>9 Q. And who was Ed Brown?</p> <p>10 A. Mr. Ed Brown is at that time and is</p> <p>11 currently -- was at that time and is</p> <p>12 currently the manager of Human Resources.</p> <p>13 Q. And Darlene Sanders?</p> <p>14 A. Darlene Sanders is the same as Darlene</p> <p>15 Waylan. She was at that time the director of</p> <p>16 Human Resources and is now the director of</p> <p>17 employee readiness.</p> <p>18 MR. JACOBS: That's all I have today.</p> <p>19 MS. GRAVELINE: Just have a few</p> <p>20 followups.</p> <p>21 EXAMINATION</p> <p>22 BY MS. GRAVELINE:</p> <p>23 Q. Mr. Whitney?</p>
Page 107	Page 109
<p>1 was zeroed out. Dependent dental, he did</p> <p>2 select whatever Level 9 was. And once again,</p> <p>3 these are all codes which --</p> <p>4 Q. Codes.</p> <p>5 A. -- went into or reflected a level of</p> <p>6 selection.</p> <p>7 Q. These are all indications of some type of</p> <p>8 insurance that he would have had?</p> <p>9 A. Yes, sir.</p> <p>10 Q. Or not had as the case might be?</p> <p>11 A. Yes, sir.</p> <p>12 Q. And on the second form that was generated</p> <p>13 simultaneously, I notice at the lower part of</p> <p>14 that, some of that same terminology and</p> <p>15 indication. So that's just repetitious; is</p> <p>16 that correct? And I'm not trying to ask you</p> <p>17 to say it's exactly the same, but I see the</p> <p>18 OPT DEP INS colon D?</p> <p>19 A. Yes, sir. And what that means, once again,</p> <p>20 when a -- when a person is having a status</p> <p>21 change, they will go through this screen.</p> <p>22 But the benefits won't be affected from this</p> <p>23 screen. They'll be affected from this screen</p>	<p>1 A. Yes, ma'am.</p> <p>2 Q. Does AFS know whether Mr. Houston had a</p> <p>3 physical or mental impairment that</p> <p>4 significantly limited any major life</p> <p>5 activity?</p> <p>6 A. No, ma'am, no significant impairment of a</p> <p>7 major life activity has been identified by</p> <p>8 Mr. Houston in any way.</p> <p>9 Q. Okay. And also, is there any possibility</p> <p>10 that Mr. Houston could have been reclassified</p> <p>11 as an aircraft scheduler?</p> <p>12 A. Not without circumventing the CBA or getting</p> <p>13 buy-off from the union as to an exception.</p> <p>14 Q. Is AFS at least willing to consider options</p> <p>15 on how to approach the union about putting</p> <p>16 him into that position had he followed</p> <p>17 through with his obligations to submit a</p> <p>18 reclassification form?</p> <p>19 A. Since Mr. Houston had not applied for any</p> <p>20 position, AFS would have had nothing to bring</p> <p>21 to the union. We -- had we been able to,</p> <p>22 anything we would have done at that time</p> <p>23 would have had to have involved an agreement</p>

SAMUEL HOUSTON v. ARMY FLEET SERVICES, LLC  
DEPOSITION OF ROBERT WHITNEY

2/21/2007

29 (Pages 110 to 112)

Page 110

1 outside of the current CBA.  
2 MS. GRAVELINE: That's all I have.  
3 (The deposition concluded  
4 at 11:40 a.m.)  
5 \*\*\*\*\*  
6 FURTHER DEPONENT SAITH NOT  
7 \*\*\*\*\*  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

Page 112

1 SIGNATURE OF WITNESS  
2 I, ROBERT ALFRED WHITNEY, hereby certify  
3 that I have read the transcript of my deposition  
4 consisting of pages 4 through 110, and except for  
5 the corrections listed below, certify that it is  
6 a true and correct transcription.  
7  
8

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
ROBERT ALFRED WHITNEY

SWORN TO AND SUBSCRIBED before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

NOTARY PUBLIC

\*\*\*\*\*

Page Line Correction and reason therefor

Page 111

1 REPORTER'S CERTIFICATE

2 STATE OF ALABAMA

3 MONTGOMERY COUNTY

4 I, Sherry L. Mack, Court Reporter and  
5 Commissioner for the State of Alabama at Large,  
6 hereby certify that on Wednesday, February 21,  
7 2007, I reported the deposition of ROBERT ALFRED  
8 WHITNEY, who was first duly sworn or affirmed to  
9 speak the truth in the matter of the foregoing  
10 cause, and that pages 4 through 110 contain a  
11 true and accurate transcription of the  
12 examination of said witness by counsel for the  
13 parties set out herein.

14 I further certify that I am neither of kin  
15 nor of counsel to any of the parties to said  
16 cause, nor in any manner interested in the  
17 results thereof.

18 This 2nd day of March, 2007.  
19  
20

21 SHERRY MACK, COURT REPORTER  
22 Commissioner For the State  
23 of Alabama at Large

MY COMMISSION EXPIRES: 1/06/08



